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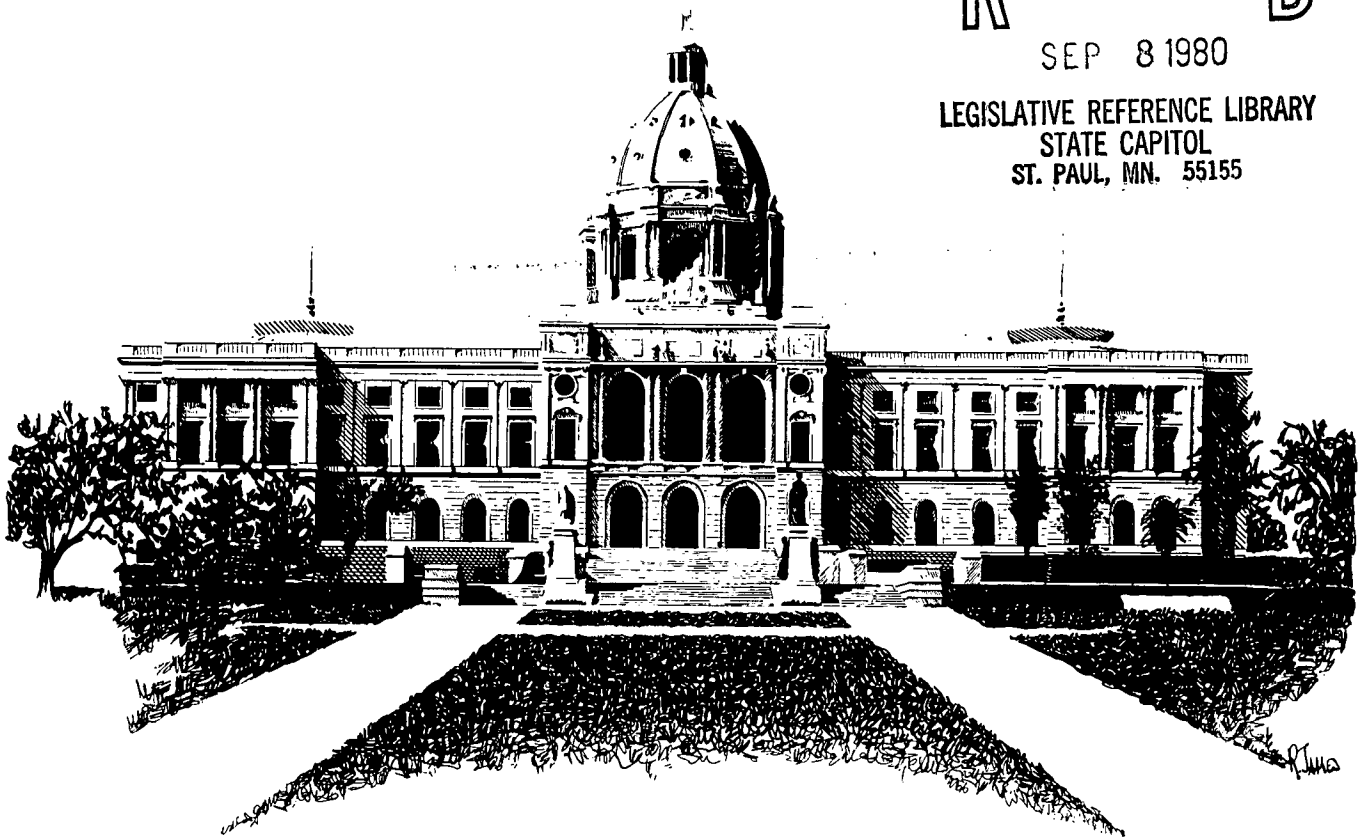
# STATE REGISTER

STATE OF MINNESOTA

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September 8, 1980

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### 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 5			
11	Friday Aug 29	Monday Sept 8	Monday Sept 15
12	Monday Sept 8	Monday Sept 15	Monday Sept 22
13	Monday Sept 15	Monday Sept 22	Monday Sept 29
14	Monday Sept 22	Monday Sept 29	Monday Oct 6

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

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

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

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

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**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:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issue 27-38, inclusive	

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# PROPOSED RULES

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

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## Metropolitan Waste Control Commission

### Proposed Waste Discharge Rules for the Metropolitan Disposal System

#### Notice of Hearing

A public hearing concerning the proposed rules will be held in the Southdale-Hennepin Area Library Community Room, 7001 York Avenue South, Edina, Minnesota, on Thursday, October 9, 1980, commencing at 9:30 a.m. The proposed rules may be modified as a result of the hearing process. Therefore, if you are concerned about the content of the rules, you are urged to participate in the rule hearing process.

Following the commission's presentations at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Phyllis Reha, Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8109, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. All such statements will be entered into and become part of the record. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052 and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the Hearing Examiner.

The proposed rules regulate waste discharges into the Commission's Metropolitan Disposal System. In order to be eligible for federal construction grants, the Commission must meet all grant requirements of the Federal Clean Water Act. Adoption of rules governing the discharge of Industrial Wastes is one of these requirements. The rules provide:

—for procedures to ensure commission compliance with provisions of the Federal Clean Water Act (33 U.S.C. 1251 *et seq.*), as amended.

**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

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- for rules to prevent and abate pollution.
- for rules requiring Industrial Users discharging into the Metropolitan Disposal System to obtain an Industrial Discharge Permit.
- for routine sampling and analysis of a permitted Industrial Waste discharge.
- for monitoring controls, record keeping and a routine reporting by an Industrial User.
- for the prohibition of discharge of specified substances into the Metropolitan Disposal System.
- for the regulation of waste discharges containing specified heavy metals beyond certain concentration limitations and outside a specified pH range.
- for conditions under which specific categories of Industrial Users are subject to applicable Pretreatment Standards promulgated by the EPA in accordance with the Federal Clean Water Act.
- for protective procedure requirements by the Industrial User to prevent accidental discharges of prohibited wastes, waste in excess of concentration limitations, and wastes in violations of an applicable Pretreatment Standard.
- for various enforcement, administrative, notification, and appeal matters.

The commission estimates that there will be no cost to local public bodies in the metropolitan area in excess of \$100,000 to implement the rules for the two years immediately following its adoption, within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Donald R. Madore, Metropolitan Waste Control Commission, 350 Metro Square Building, Saint Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing.

Notice is hereby given that twenty-five days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the commission office and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all of the evidence which the commission intends to present at the hearing to justify the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The statutory authority of the commission to adopt these rules is contained in Minn. Stat. § 473.504, subds. 4 and 5, and § 473.515, subd. 3 (1978).

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the commission may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the commission. 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 commission, in the case of the commissioner's submission or resubmission to the Attorney General.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. 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, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

August 20, 1980

Salisbury Adams, Chairman  
Metropolitan Waste Control Commission

### Rules as Proposed (all new material)

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- Appendix B Industrial waste self-monitoring guidelines.
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- Appendix D Pretreatment standards.
- Appendix E Industrial waste discharge report.
- Appendix F Waste transport hauler discharge report.
- Appendix G Industrial discharge permit renewal application.

**6 MCAR § 6.010 Policy, authority, and purpose.**

A. The Metropolitan Waste Control Commission designs, constructs, owns, and operates the Metropolitan Disposal System, a publicly owned system of interceptors and treatment works, for the conveyance, treatment, and disposal of Domestic and Industrial Wastes from residential, commercial, institutional, and Industrial Users in the Metropolitan Area. To achieve the highest and best use of the commission's facilities, the commission shall regulate the quantity and quality of discharges into the public sewers of local units of government and the interceptors of the commission. Further, the commission shall maintain a program to regulate, enforce and charge for services necessary to carry out its obligations under federal and state laws.

B. These rules are adopted by the Metropolitan Waste Control Commission pursuant to Minn. Stat. ch. 473, and are declared to be necessary for the efficient, economic, and safe operation of the Metropolitan Disposal System, and for protection of the health, safety, and general welfare of the public in the Metropolitan Area.

C. These rules are intended:

1. To carry out the comprehensive plan for the Metropolitan Disposal System as contained in the "Metropolitan Development Guide, Waste Management Policy Plan" adopted by the Metropolitan Council, as amended;
2. To comply with provisions of the Federal Clean Water Act (33 U.S.C. 1251 *et seq.*, as amended);
3. To comply with permit requirements under the National Pollutant Discharge Elimination System;
4. To comply with federal (U.S. Environmental Protection Agency) and state (Minnesota Pollution Control Agency) rules and regulations in order to maintain eligibility for federal and state grants for construction of treatment facilities; and
5. To prevent and abate pollution.

**6 MCAR § 6.011 Definitions.**

The following definitions shall be used in the interpretation of these rules unless otherwise indicated by the context.

- A. "Act"—the Federal Water Pollution Control Act (PL 92-500), and the Clean Water Act (PL 95-217), as amended.
- B. "Chief administrator"—The Chief Administrator of the Metropolitan Waste Control Commission, or his duly authorized representative.
- C. "Commission"—The Metropolitan Waste Control Commission, established by Minn. Stat. § 473.503, as amended.
- D. "Domestic waste"—Wastes from residential users and from the sanitary conveniences of multiple dwellings, commercial buildings, institutions, and industrial facilities.
- E. "EPA"—The U.S. Environmental Protection Agency.
- F. "General pretreatment regulations"—The general pretreatment regulations for existing and new sources of pollution promulgated by EPA under § 307(b) and (c) of the Act and found at 40 CFR Part 403.
- G. "Industrial discharge permit" or "permit"—A permit issued by the commission to an industrial user to use the Metropolitan Disposal System, as established by § 6.012 herein.

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## PROPOSED RULES

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H. "Industrial user"—Persons who discharge industrial waste and whose activities are listed in the SIC major group, group, or industry numbers contained in attached Appendix C shall be deemed industrial users unless the discharge contains only domestic waste generated at the discharge site or unless the discharge of industrial waste is insignificant.

I. "Industrial waste"—Solid, liquid, or gaseous wastes, including cooling water (except where exempted by a NPDES permit), resulting from any industrial, manufacturing, or business process, or from the development, recovery or processing of a natural resource.

J. "Interference"—A disruption or an inhibition of the sewer system and/or treatment plant processes or operations or a violation of any requirement of an NPDES Permit. The term also includes prevention of Sewage Sludge use or disposal by the commission in accordance with local, state, and federal rules or regulations.

K. "May"—permissive.

L. "Metropolitan Area"—The area in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

M. "Metropolitan Disposal System" or "MDS"—Any or all of the interceptors and treatment works owned and operated by the commission.

N. "NPDES permit"—A discharge permit issued pursuant to the National Pollutant Discharge Elimination System established under the Act.

O. "pH"—A measure of the acidity or basicity of a waste. It is the logarithm of the reciprocal of the hydrogen ion concentration in moles per liter.

P. "Permittee"—An industrial user authorized to discharge, directly or indirectly, industrial waste into the MDS pursuant to an industrial discharge permit.

Q. "Person"—Any individual, partnership, association, corporation, public agency, and any other organization or group of individuals, public or private.

R. "Pretreatment"—The process of equalizing or reducing the amount of pollutants in wastewater or eliminating pollutants or altering the nature of pollutant properties in wastewater to a less harmful state by physical, chemical, or biological processes prior to or in lieu of discharging or otherwise introducing such pollutants into the Metropolitan Disposal System.

S. "Pretreatment standards"—Regulations, applicable to specific categories of Industrial Users, containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the Act as established under 40 C.F.R. Chapter I, Subchapter N.

T. "Rules"—The waste discharge rules for the Metropolitan Disposal System contained herein.

U. "SIC"—The Standard Industrial Classification Code (1972) issued by the Executive Office of the President, Office of Management and Budget, for use in the classification of establishments by types of business and the primary and economic activity engaged in.

V. "Sewage sludge"—Solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment plant.

W. "Shall"—Mandatory.

X. "Slug"—Any waste discharge which, in concentration of any given constituent or in quantity of flow, exceeds four (4) times the average twenty-four (24) hour concentration or flow during normal operation.

Y. "Waste transport hauler"—An industrial user who transports industrial or domestic waste for the purpose of discharge into the MDS.

### **6 MCAR § 6.012 Industrial discharge permit.**

A. Scope. Industrial users discharging directly or indirectly into the Metropolitan Disposal System shall obtain an industrial discharge permit pursuant to these rules.

B. Permit application.

1. An industrial user who is required to obtain an industrial discharge permit shall complete and file with the commission a permit application in a form substantially the same as that set forth in Appendix A. The appropriate permit fee as provided by § 6.012 F. shall accompany the permit application form at the time of application. No industrial user shall discharge into the MDS after January 1, 1982, unless the industrial user has been granted an industrial discharge permit or has submitted a completed permit application.

2. If the permit application is incomplete or otherwise deficient, the chief administrator shall promptly advise the applicant of such incompleteness or deficiency. An industrial discharge permit shall not be issued until an application is complete.



3. Within sixty (60) days after receipt of a completed application form from the industrial user, the chief administrator shall, upon a determination that the applicant is capable of compliance with the industrial discharge permit conditions and these rules, issue an industrial discharge permit subject to the terms and conditions provided herein.

C. Permit conditions. Industrial discharge permits shall be subject to all provisions of these rules. Permits shall include the following conditions, if applicable:

1. Payment of strength charge and industrial cost recovery charge;
2. The maximum allowable wastewater constituents and characteristics, either in terms of concentrations, mass limitations, or other appropriate limits;
3. Requirements for installation, maintenance, and operation of sampling and monitoring points;
4. Pretreatment requirements;
5. Specifications for self-monitoring programs, which include sampling locations, frequency and method of sampling, number and type of tests as well as reporting schedules;
6. Requirements for access to the permittee's premises and records pursuant to § 6.012 H.;
7. Requirements for submission of plans and maintenance of records for the prevention and control of accidental discharges pursuant to § 6.016;
8. Compliance schedules;
9. Requirements for notification to the chief administrator of any change in the volume or characteristics of industrial waste introduced into the MDS which the permittee knows or has reason to know will or is likely to have, either singly or by interaction with other wastes, a negative impact on the MDS treatment process;
10. Requirements for notification of Slug and/or bypass discharges.
11. Requirements for the specific location, time, and volume of discharge to the MDS for waste transport haulers.

D. Permit modification, suspension, and revocation.

1. An industrial discharge permit may be modified, suspended, or revoked, in whole or in part, by the chief administrator during its term for cause, including:

- a. Violation of these rules;
- b. Violation of any terms or conditions of the industrial discharge permit;
- c. Obtaining an industrial discharge permit by misrepresentation or failure to disclose fully all relevant facts;
- d. Amendment of these rules;
- e. A change in the MDS treatment process which results in the permittee's discharge having a significantly different and negative impact on the process;
- f. A change in the permittee's industrial waste volume or characteristics which the permittee knows or has reason to know will or is likely to have, either singly or by interaction with other wastes, a negative impact on the MDS treatment process (modification only);
- g. A determination by the chief administrator that the permittee's discharge reasonably appears to present an imminent endangerment to the health or welfare of persons, present an endangerment to the environment, or threaten interference with the operation of the MDS.

2. Any modifications in the industrial discharge permit shall specify a reasonable time schedule for compliance.

3. A permittee may surrender an industrial discharge permit to the commission prior to the permit's scheduled termination. In the event that a permit is surrendered or revoked, the permittee shall be refunded a pro rata portion of the permit fee paid.

E. Permit duration and reissuance. Industrial discharge permits shall be issued for a period of three (3) years; provided, however, that original permits may be issued for a period of between two (2) and three (3) years for the administrative convenience of the commission so as to stagger the renewal dates of permits. The permittee shall apply for permit reissuance at least ninety (90) days prior to the permit's expiration date by filing with the commission a permit reissuance application in a form substantially the same as that set

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## PROPOSED RULES

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forth in Appendix G, the applicable fee, and any proposed revisions to the conditions of the expiring permit. Within ninety (90) days after receipt of the fee and permit reissuance application, the chief administrator, upon a determination that the permittee has been in compliance with the expiring permit and is capable of complying with the reissued permit, shall reissue an industrial discharge permit upon the terms and conditions specified for an additional period of three (3) years. An expiring permit may be modified for any of the causes specified in § 6.012 D.

F. Permit fees. The industrial discharge permit fee shall be as follows:

<u>Total Waste Discharge</u> (Million Gallons Per Year)	<u>Permit Fee</u> (Both Initial and Reissuance)
Less than 2	\$ 30.00
Between 2 and 20	90.00
Greater Than 20	180.00

G. Permit transfer.

1. Industrial discharge permits shall be issued to specific users at specific locations. An industrial discharge permit shall not be assigned or transferred to a new owner or a different premises without the written consent of the commission.

2. In the event of a change in the entity owning the industrial waste discharge facilities for which there is an industrial discharge permit, the prior owner, if feasible, shall notify the commission of said change in ownership and the succeeding owner of the provisions of the industrial discharge permit and these rules.

3. The new owner shall submit a new permit application under § 6.012 B.1. or shall submit to the commission an executed statement agreeing to be bound by the terms and conditions of the existing industrial discharge permit for the facility in which case, upon consent of the commission, the permit shall continue in effect until its expiration date.

H. Monitoring and records.

1. Each permittee, except a waste transport hauler or unless exempted by permit, shall provide and operate at the permittee's own expense a monitoring point to allow for reasonable inspection, sampling, and flow measurements by the commission of all Industrial Waste discharged directly or indirectly to the MDS. This point shall be the same as the permittee's monitoring location. The monitoring point shall be situated on the permittee's premises or, upon prior approval from the local government unit in which the facility is located, the monitoring point may be constructed in a public right of way. There shall be sufficient room and adequate access in or near such monitoring point to allow for accurate sampling and flow measurement.

2. The chief administrator shall have the right to inspect the monitoring point of any permittee to determine compliance with these rules and the industrial discharge permit. The permittee shall allow the chief administrator to enter upon the premises of the permittee during normal operating hours to inspect the facility, disposal systems, or monitoring methods after informal notice. However, in the event of emergency conditions in the MDS or where the chief administrator has reasonable cause to believe that a permittee is evading detection of permit violations through advanced notice, the chief administrator may enter a permittee's premises without providing any notice. The chief administrator shall also have the right to set up on the permittee's premises necessary devices to conduct sampling, inspection, compliance monitoring and/or metering operations.

3. Wastewater discharge records of a permittee shall be kept by the permittee for a period of not less than three (3) years. The permittee shall provide the chief administrator reasonable access to these records during normal business hours. A permittee subject to an applicable pretreatment standard shall maintain all records required by 40 CFR § 403.12(n) of the General Pretreatment Regulations.

I. Sampling and analysis.

1. Representative samples of a permittee's industrial waste shall be collected on normal operating days and in accordance with guidelines listed in Appendix B. Industrial users subject to pretreatment standards shall sample in accordance with the pretreatment standards. Self-monitoring point(s) for industrial users who are not subject to pretreatment standards shall be at a location before wastewater is mixed with other discharges or at a point where waste can be adequately monitored.

2. A permittee whose industrial waste discharge is greater than 100,000 gallons per day through single or multiple connection(s) at a permitted facility to the Metropolitan Disposal System shall install and maintain a flow measurement device for instantaneous rate and/or cumulative flow volume determinations. Metered water supply may be used in lieu of flow measurement devices if it can be documented that the water usage and waste discharge are the same, or where a measurable adjustment to the metered supply can be made to determine the waste volume.

3. Meters and flow recorders shall be maintained at the permittee's expense in good operating condition at all times. The permittee shall notify the chief administrator in writing within five (5) days in the event that the permittee becomes aware that the meter or flow recorder has failed to accurately register the flow. The permittee shall also notify the chief administrator of the permittee's intention to alter the installation of a meter or flow recorder so as to affect the accurate recording of Industrial Waste entering the MDS.

4. Test procedures for the analysis of pollutants for permit applications and routine self-monitoring shall conform to the guidelines established in 40 CFR Part 136 and 40 CFR § 403.12(g) of the General Pretreatment Regulations.

J. Self-monitoring reports.

1. A condition of the industrial discharge permit shall include the completion and submittal of accurate routine self-monitoring reports to the commission in the form substantially similar to that set forth in Appendix E, or, in the case of Waste Transport Haulers, Appendix F. The nature and frequency of routine reporting shall be based upon the information provided in the permit application form. Except in the case of waste transport haulers, reports shall be required as follows:

<u>Total Waste Discharge</u> (Million Gallons Per Year)	<u>Reporting Frequency</u>
Less than 2	annually
Between 2 and 20	semi-annually
Greater than 20	quarterly

The chief administrator may modify the above reporting schedule for a particular permittee based on the permittee's industrial waste characteristics. Waste transport haulers shall submit reports semi-annually.

2. Permittees subject to pretreatment standards shall submit reports to the commission in accordance with the applicable pretreatment standards.

K. Report and monitoring discrepancies. A permittee shall be notified in writing by the commission of a significant discrepancy between the permittee's routine self-monitoring reports and the commission's monitoring results within thirty (30) days after the receipt of such reports and monitoring results. The permittee shall then have ten (10) working days to reply in writing to such notification. If mutual resolution of such discrepancy is not achieved, additional sampling shall be performed by the commission. Samples shall be split between the permittee's laboratory or agent and the commission's laboratory for analysis.

L. Public access to information. Public access to information and data furnished to the commission by permittees shall be available to the public as provided by the Minnesota Government Data Practices Act and 40 CFR § 403.14 of the General Pretreatment Regulations.

**6 MCAR § 6.013 Prohibited waste discharges.** No person shall discharge or cause to be discharged, directly or indirectly, into the Metropolitan Disposal System any of the following substances:

A. Any combustible, flammable or explosive solids, liquids, or gases which by their nature or quantity will or are likely to cause either alone or by interaction with other substances a fire or explosion or be injurious to the treatment plant operation. At no time shall two (2) successive readings on an explosimeter, at the point of discharge into the sewer system, be more than five percent (5%) nor shall there be any single reading over ten percent (10%) of the Lower Explosive Limit (L.E.L.). Prohibited materials include gasoline, kerosene, naphtha, fuel oil, lubricating oil, benzene, toluene, xylene, ethers, alcohols, and ketones.

B. Any solids or viscous substances which will or are likely to cause obstruction to the flow in a sewer or Interference with the operation of the MDS. These include garbage with particles greater than one-half inch (1/2") in any dimension, grease, animal guts or tissues, bones, hair, hides or fleshings, entrails, feathers, ashes, sand, spent lime, stone or marble dust, metal, glass, grass clippings, rags, spent grains, waste paper, wood, plastic, gas tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, glass grinding and polishing wastes.

C. Any wastewater containing inert suspended solids (including lime slurries and lime residues) or dissolved solids (including sodium chloride) in such quantities that will or is likely to cause Interference with the MDS.

D. Any wastewater having a corrosive property that will or is likely to cause damage or hazard to structures, equipment, or personnel of the MDS.

E. Any wastewater containing toxic or poisonous pollutants in sufficient quantity, either singly or by interaction with other pollutants, that will or is likely to cause Interference or constitute a hazard to humans.

F. Any noxious or malodorous solids, liquids, or gases, which, either singly or by interaction with other wastes, will or are likely to create a public nuisance or hazard to life or prevent the entry of commission's personnel into a sewer for its monitoring, maintenance, and repair.

G. Any wastewater which will or is likely to cause excessive discoloration in treatment plant effluent, including dye wastes, vegetable tanning solutions, and printing inks.

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- H. Wastes, other than domestic wastes, that are infectious before discharging into the sewer.
- I. Any sludge from an industrial pretreatment facility except as provided in § 6.014 B.2.
- J. Heat in amounts which will or is likely to inhibit biological activity in any commission treatment plant resulting in Interference or causing damage to the MDS, but in no case heat in such quantities that the Industrial Waste temperature is greater than 65°C (150°F) at its point of discharge to the MDS, or heat causing, individually or in combination with other wastewater, the influent at any Commission treatment plant to have a temperature exceeding 40°C (104°F).
- K. Any wastewater containing fat, wax, grease or oil in excess of 100 mg/l that will or is likely to solidify or become viscous at temperatures between 0 and 65°C and which will or is likely to cause obstruction to the flow in sewers or other Interference to the MDS.
- L. Any slug discharged in such volume or strength which a person knows or has reason to know will or is likely to cause Interference in the MDS.
- M. Any unpolluted water including cooling water, rain water, storm water, or groundwater unless there is no prudent and feasible alternative.
- N. Radioactive wastes or isotopes of such a half-life or concentration that they are in non-compliance with standards issued by the appropriate authority having control over their use and which will or are likely to cause damage or hazards to the MDS or personnel operating it.
- O. Any hazardous waste, unless prior approval has been obtained from the chief administrator.
- P. Any waste generated outside the Metropolitan Area.

## 6 MCAR § 6.014 MDS limitations on discharges.

### A. Local limitations.

1. No person shall discharge or cause or allow to be discharged, directly or indirectly, into the MDS any waste containing concentrations in excess of the following:

<u>Parameter</u>	<u>Limitation</u>
	(Maximum for any operating day)
Cadmium (Cd)	2.0 mg/l
Chromium total (Cr)	8.0 mg/l
Copper (Cu)	6.0 mg/l
Cyanide total (Cn)	4.0 mg/l
Lead (Pb)	1.0 mg/l
Mercury (Hg)	0.1 mg/l
Nickel (Ni)	6.0 mg/l
Zinc (Zn)	8.0 mg/l

2. No person shall discharge or cause or allow to be discharged, directly or indirectly, into the MDS any waste containing a pH less than 5.0 units or more than 10.0 units.

3. Notwithstanding the provisions of § 6.014 (A) (1), in the event that a discharge of pollutants results in a violation of any requirement of an NPDES permit for a particular commission treatment plant or results in the sewage sludge from a particular commission treatment plant exceeding standards or limitations contained in local, state, or federal law, the commission shall order all persons discharging to said treatment plant to reduce the concentration of pollutants to the degree necessary to remedy NPDES permit violations or to meet sewage sludge rules and regulations. Upon receipt of said order all persons discharging pollutants to said treatment plant shall immediately comply with said order by reducing the concentration of pollutants accordingly. This provision shall be applicable to industrial users subject to pretreatment standards notwithstanding less stringent pollutant limitations contained in said pretreatment standards or the provisions of § 6.015 A.1.

### B. Pretreatment.

1. An industrial user shall make industrial waste acceptable under the limitations established in § 6.014 A.1. and/or any applicable pretreatment standard before discharging, directly or indirectly, into the MDS. Any industrial user required to pretreat industrial waste shall provide, operate, and maintain such a facility at the Industrial User's expense. Detailed plans showing the pretreatment facilities shall be submitted to the commission for review and approval at least sixty (60) days prior to the initiation of construction. The chief administrator shall approve the industrial user's pretreatment plans if it appears that the proposed pretreatment facility is capable of meeting all applicable limitations. The commission's review and approval shall in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of these rules. Any subsequent modifications in the pretreatment facilities which will result in a substantial change in discharge shall be reported to

and be approved by the chief administrator, upon a determination that the modified facility is capable of meeting all applicable limitations, prior to the modification of the existing facility.

2. Residual solids from a pretreatment facility shall not be disposed, directly or indirectly, into the MDS without prior written approval from the chief administrator. The disposal method shall be in accordance with local, state, and federal requirements. The chief administrator shall be notified in writing within ten (10) days of any substantial changes in such residual solids disposal procedures and/or characteristics.

C. Dilution. No person shall use potable or process water in any way for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations set forth in these rules or applicable pretreatment standards.

D. Trap installations. Grease, oil and sand traps shall be provided for the proper discharge of waste containing excessive amounts of grease, oil, or sand. All trap installations shall be regularly cleaned and maintained for adequate performance.

E. Non-contact cooling water. Every person shall discharge non-contact cooling water via a NPDES permit whenever prudent and feasible.

#### **6 MCAR § 6.015 Pretreatment standards.**

##### **A. Conditions.**

1. Pretreatment standards as promulgated pursuant to § 307 of the Act shall be met by all affected industrial users. Where an industrial user is subject to applicable pretreatment standards, such industrial user shall comply with the pollutant limitations contained therein and not the limitations under § 6.014 A.1., except that where the applicable pretreatment standards, by reason of the nature of particular industrial user, do not regulate all the pollutant parameters specified in § 6.014 A.1., then such industrial user shall be subject to the limitations provided in § 6.014 A.1. for those pollutant parameters for which it is not regulated under the pretreatment standards. In all other respects, industrial users subject to pretreatment standards shall comply with all provisions of these rules and any permit issued thereunder, notwithstanding less stringent provisions of the General Pretreatment Regulations or any applicable pretreatment standard. Industrial users subject to pretreatment standards shall comply with all more stringent provisions of the General Pretreatment Regulations and applicable pretreatment standards, notwithstanding less stringent provisions contained in these rules or any permit issued thereunder.

2. The pretreatment standards, as of the date of adoption of these rules, listed in Appendix D shall be applicable to industrial users.

3. The chief administrator shall notify all affected industrial users of the applicable pretreatment standards, their amendments, and reporting requirements in accordance with 40 CFR § 403.12 of the General Pretreatment Regulations. A compliance schedule shall be developed between the commission and the industrial user to ensure that the industrial user complies with local, state, and federal limitations in a timely manner as provided by the same section of the General Pretreatment Regulations.

##### **B. Removal credits and variances.**

1. If the commission achieves consistent removal of pollutants limited by pretreatment standards, the commission may apply to EPA for modification of specific limits of the pretreatment standards. The commission shall modify pollutant discharge limits applicable to an industrial user in the pretreatment standards if the requirements contained in 40 CFR § 403.7 of the General Pretreatment Regulations relating to credits for the removal of pollutants are fulfilled and prior approval from EPA is obtained. However, nothing herein shall be construed to require the commission to apply to EPA for removal credits nor shall it be construed to in any way limit the applicability of the limitations provided in § 6.014 A.1. in the event that such a removal credit is granted, except as provided in § 6.015 A.1.

2. The commission shall recognize and enforce the conditions allowed for by variances from pretreatment standards for fundamentally different factors as granted by EPA to individual industrial users in accordance with 40 CFR § 403.13 of the General Pretreatment Regulations.

C. Reports. Reports specified in 40 CFR 403.12 of the General Pretreatment Regulations shall be submitted to the commission by affected industrial users.

#### **6 MCAR § 6.016 Accidental and slug discharges.**

A. Prevention. All industrial users shall provide adequate protective procedures to prevent the accidental discharge of any waste prohibited in § 6.013, any waste in excess of the limitations provided in § 6.014 A.1., or any waste in violation of an applicable pretreatment standard.

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### B. Accidental discharges.

1. Any person who has knowledge of an accidental discharge into the MDS of any waste referred to in § 6.016 A. shall immediately notify the chief administrator of such a discharge. In the event that the person reporting the accidental discharge is not the person responsible for the discharge, the chief administrator shall immediately notify the responsible person of the discharge. The responsible person shall take immediate action as is reasonably possible to minimize or abate the prohibited discharge.

2. The responsible person shall send a letter describing the prohibited discharge to the commission within three (3) days after obtaining knowledge of the discharge. The letter shall include the following information:

- a. the time and location of the spill;
- b. description of the accidentally discharged waste, including estimate of pollutant concentrations;
- c. time period and volume of wastewater discharged;
- d. actions taken to correct or control the spill;
- e. a schedule of corrective measures to prevent further spill occurrences.

3. Such notification as described herein shall not relieve the responsible person of liability for expenses, loss, or damage to the MDS or treatment processes or for any fines or penalties imposed under local, state, or federal law.

C. Slug discharges. In the event that an industrial user discharges a slug in such volume or strength that the industrial user knows or has reason to know it will cause interference in the MDS, the industrial user shall immediately report the same to the chief administrator. Within three (3) days thereafter, the industrial user shall send a letter to the commission describing the slug.

### 6 MCAR § 6.017 Enforcement.

A. Remedies available. The provision of these rules and all standards, limitations, orders, schedules of compliance, and all provisions and the conditions of any permit issued by the commission thereunder shall be enforced by the commission by any one or any combination of the following: criminal prosecutions; action to recover civil damages; injunction; action to compel performance; termination of service.

#### B. Criminal penalties.

1. Any person who willfully or negligently violates any provision of these rules or any provision or condition of any permit issued by the commission thereunder including discharging waste in violation of any commission order, prohibition, discharge limitation, or pretreatment standard, or any person who continues such violation beyond the time limit provided for in the chief administrator's written notice of violation, shall be guilty of a misdemeanor. Each day in which any such violation continues shall be deemed a separate offense.

2. Any person who knowingly makes any false statement or representation in any record, report, plan or other document filed with the commission, or who falsifies, tampers with, or renders inaccurate any monitoring device or method required under these rules or any permit issued by the commission thereunder shall be guilty of a misdemeanor.

C. Civil liability. Any person discharging waste in violation of these rules or any provision or condition of any permit issued by the commission thereunder shall be subject to civil liability to the commission for any or all of the following:

1. the added costs to the commission of handling the improper discharge;
2. the costs incurred by the commission in correcting the violation, in repairing damage to the Metropolitan Disposal System, and in cleanup of the unauthorized discharge;
3. any costs or penalties imposed upon the commission by regulatory authorities by reason of the violating discharge.

D. Injunctions. Any violation of these rules or any provision or condition of any permit issued by the commission thereunder which causes, or threatens to cause, an imminent endangerment to the health or welfare of persons, an endangerment to the environment, or interference with the operation of the MDS may be enjoined by the commission as provided by law.

E. Actions to compel performance. In the event of a violation of these rules or any provision or condition of any permit issued by the commission thereunder, the commission may petition a court of competent jurisdiction for an order compelling compliance with these rules or any permit issued thereunder or any order compelling the person in violation to:

1. Demonstrate that in-plant improvements will modify a discharge in such a way as to comply with these rules and any applicable permit;
2. Install and maintain pretreatment, handling, or monitoring facilities necessary to reduce or eliminate those characteristics of the discharge which resulted in the violation; or
3. Discontinue any discharge, or part thereof, into the Metropolitan Disposal System.

F. Termination of service. In the event that a discharge directly or indirectly to the MDS in violation of these rules or of any permit issued thereunder is causing, or threatens to cause, an imminent endangerment to the health or welfare of persons, an endangerment to the environment, or interference with the operation of the MDS, the chief administrator may interrupt or terminate the sewage service to the violator after informal notice and, if feasible, an opportunity to respond.

**6 MCAR § 6.018 Administration.**

A. Administration. These rules, and interpretations thereof, shall be administered by the chief administrator.

B. Enforcement. The chief administrator shall take all reasonable actions necessary to enforce these rules and to correct violations thereof.

C. Notice of violation. Any person found to be in violation of any provision of these rules, or of the provisions of an industrial discharge permit, shall be served by the chief administrator with a written notice of such violation and an order to cease and desist. The notice shall direct the person to comply forthwith or to comply in accordance with a time schedule set forth by the chief administrator. The chief administrator shall also serve a notice in cases of threatened violations and direct that appropriate remedial or preventive action be taken.

D. Variances. Except in the case of pretreatment standards, upon the written request of any person the chief administrator shall grant a variance where there is no prudent and feasible alternative to non-compliance with these rules or a permit issued thereunder. The chief administrator, upon approval of the commission, shall respond within forty-five (45) days of a request for a variance and shall set forth in writing his reasons for granting or denying the variance.

E. Appeals.

1. Any person affected by any decision or order made by the chief administrator in interpreting or administering the provisions of these rules or of any permit issued pursuant hereto, may file with the chief administrator a written request for reconsideration within ten (10) days of such decision, action or determination, setting forth in detail the facts supporting the request for reconsideration. The chief administrator shall respond in writing on the decision within ten (10) days of receipt of the request for reconsideration.

2. The chief administrator's decision may be appealed for hearing to the commission by giving written notice of appeal, within ten (10) days after receipt of the decision of the chief administrator. Notice of a scheduled hearing shall be mailed to the appealing person. The decision of the commission on such appeal shall be the final administrative determination.

**6 MCAR § 6.019 Effective date and severability.**

A. Effective date. These rules shall become effective thirty (30) days after adoption by the commission and publication as required by law.

B. Severability. If the provisions of any section, paragraph, or sentence of these rules shall for any reason be held to be unconstitutional or invalid by any court of competent jurisdiction, the provisions of the remaining sections, paragraphs and sentences shall nevertheless continue in full force and effect.

C. Conflicts. If conflicts arise between these rules and any other rules or regulations previously adopted by the commission, these rules, and the interpretations thereof, shall take precedence.

**Appendix A**

**Industrial Discharge Permit Application**

**METROPOLITAN WASTE CONTROL COMMISSION  
PERMIT APPLICATION FOR DISCHARGE OF INDUSTRIAL WASTE  
TO THE METROPOLITAN DISPOSAL SYSTEM**

**A. GENERAL**

1. Company Name: \_\_\_\_\_

2. Mailing Address: \_\_\_\_\_

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3. Facility Address: \_\_\_\_\_  
 \_\_\_\_\_

4. Facility Community: \_\_\_\_\_

5. Contact Person: \_\_\_\_\_

Job Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_

6. Application for:
- Existing Facility
  - New Facility

## B. OPERATION

1. Total Number of Employees: \_\_\_\_\_

2. Operating Hours Per Day: \_\_\_\_\_

3. Number of Shifts Per Day: \_\_\_\_\_

4. Number of Employees Per Shift:      1st \_\_\_\_\_      2nd \_\_\_\_\_      3rd \_\_\_\_\_

5. Operating Days Per Week: \_\_\_\_\_

## C. PRODUCTION

1.	Nature of Operation	SIC Code	Estimated Rate of Production	Estimated Total Quantity per Yr.

2.	Principal Raw Materials	% Total



3.

Principal Products	% Total

4. If there are seasonal changes in your rate of production, please describe. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**D. SOURCE OF WATER SUPPLY**

Source	Gal/yr	Determined by
Municipal		
Private Well		
Other		
Total		

**E. WASTE DISCHARGE**

Type	Gal/yr.	Determined by
Uncontaminated Cooling Water Discharged to:		
a). Storm Sewer		
b). Receiving Water		
c). Domestic or Combined Sewer		
Domestic Waste		
Industrial Waste		
Other		
Total		

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Explain discrepancy, if any, between total water supply and total waste discharge \_\_\_\_\_

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## F. INDUSTRIAL WASTE FLOW CHARACTERISTICS

### 1. Continuous Discharge

	Daily Flow Rate	Time & Duration	Determined by
Average			
Maximum			
Minimum			

Please indicate, if any, the weekly, monthly, yearly or seasonal variations on your discharges. \_\_\_\_\_

### 2. Batch Dump

Quantity	Contents	Duration	Frequency

3. Does your company have an NPDES permit for discharge? \_\_\_\_\_  
 If "YES", please indicate the discharge volume, location, and name of the receiving water.

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## G. ANALYTICAL DATA ON INDUSTRIAL WASTE

1. Date representative sample collected: \_\_\_\_\_
2. Sample collected by (organization): \_\_\_\_\_
3. Sample analyzed by (organization): \_\_\_\_\_

# PROPOSED RULES

4. Method of sample collection: \_\_\_\_\_

5. Method of sample composition: \_\_\_\_\_

Present	Absent	Constituent	Result
_____	_____	pH	_____ units
_____	_____	Suspended Solids	_____ mg/l
_____	_____	Chemical Oxygen Demand	_____ mg/l
_____	_____	Grease and/or Oil	_____ mg/l
_____	_____	Cadmium	_____ mg/l
_____	_____	Total Chromium	_____ mg/l
_____	_____	Copper	_____ mg/l
_____	_____	Lead	_____ mg/l
_____	_____	Mercury	_____ mg/l
_____	_____	Nickel	_____ mg/l
_____	_____	Zinc	_____ mg/l
_____	_____	Total Cyanide	_____ mg/l
_____	_____	Other	_____ mg/l

## H. PRETREATMENT

### 1. All Industrial Users

- a). Does the Company accomplish in-line and/or end-of-pipe treatment of its wastes? \_\_\_\_\_
- b). If "YES", please list the parameter treated, the treatment processes, their objectives and solid waste disposal method:

Parameter Treated	Process	Objective	Solid Waste Disposal

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c). If "NO", please indicate which method(s) your company will consider for meeting MWCC limitations and/or EPA Pretreatment Standards.

- Already in Compliance.
- Addition of Pretreatment Processes (Describe).
- Modification of Processes (Describe).
- Substitution of Alternative Chemicals (Describe).
- Elimination of Certain Processes (Describe).
- Other (Describe).

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## 2. Federal Categorical Pretreatment Industries Only.

a). Categorical Process Wastewater flow.

EPA Category	Average (GPD)	Maximum (GPD)	% Total

b). If your Company cannot meet the EPA Pretreatment Standards on a consistent basis, please complete the following table for additional pretreatment and/or operation and maintenance (O & M):

Major Pretreatment Component and/or Additional O & M	Commencement Date	Completion Date	Operating Date

## I. DESCRIPTION OF INDUSTRIAL WASTE GENERATING PROCESS

1). Please sketch a flow chart of your operation(s) on a separate sheet of paper including the following information:

- a). Manufacturing steps;
- b). Stages where water and/or chemicals are added or discharged to the sewer;
- c). Source of water supply;
- d). Pretreatment System location, if required;
- e). Continuous flow and/or batch discharge stages;

- f). Location of meters, sampling, and monitoring points;
- g). Number and location of sanitary and/or combined sewer connections.

**J. CERTIFICATION OF INFORMATION**

I hereby certify that the information supplied in this application is complete and correct to the best of my knowledge.

Name (PRINT): \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Phone (Area Code): \_\_\_\_\_

Date: \_\_\_\_\_

Send completed form and an application fee of \_\_\_\_\_ to:

Metropolitan Waste Control Commission  
 Industrial Waste Section  
 350 Metro Square Bldg.  
 St. Paul, MN 55101

**Appendix B**  
**Industrial Waste**  
**Self-Monitoring Guidelines**

A. Scope. This appendix is to serve as a guideline for industrial users and commercial analytical laboratories who collect and/or analyze industrial waste samples. Methods of sample collection, sample preservation, sample handling and sample analysis are addressed herein in order to standardize the format of sampling and sample analysis.

B. Location of self-monitoring point. Major factors to be considered in selecting the sampling point(s) are:

- 1. Whether the origin and volume of wastewater flow is known or can be determined;
- 2. Whether the sampling point is easily accessible with adequate safeguards;
- 3. Whether the wastewater is well mixed and has adequate velocity for proper sampling techniques.

C. Type of samples.

1. "Grab samples"—Grab samples may be taken manually or automatically. Wide mouth jars are preferred in order to facilitate the rapidity of sample collection. A grab sample is preferred over a composite one when:

- a. Wastewater to be sampled does not flow on a continuous basis, such as periodic dumping of spent process tanks; or
- b. It is desirable to determine the instantaneous condition of a wastewater.

Grab samples are required when analyzing wastewaters for parameters such as temperature and pH.

2. "Composite samples"—Samples may be composited on the basis of any of the following:

- a. Equal time intervals and equal size samples.
- b. Equal time, unequal volume samples—amount of samples collected or added to the mixture for compositing during the sampling period is proportional to the wastewater flow at equal time intervals. Each individual sample should have a volume of at least 100 ml.
- c. Unequal time, equal volume samples—collection of fixed volume samples passing through the sampling point over unequal time intervals. When the wastewater flow varies considerably throughout a normal working day, individual samples should be taken at least hourly.

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Individual samples should be composited totally and mixed well. A 2 to 4 liter portion of the total mixture should be taken as a representative sample of the total mixture for analysis. Generally, a composite sample is acceptable if individual samples are collected hourly over a normal working day or 24 hours.

D. General precautions in sample handling.

1. Samples should be taken in the well-mixed region of the wastewater;
2. Intake of the collecting device should be placed below the water surface to avoid excessive floating materials and above the bottom to avoid sediment;
3. Before a grab sample is taken, the container should be rinsed several times with the wastewater;
4. For an automatic sampler, the intake line velocity should be sufficiently high to ensure representative sampling of suspended solids.

E. Sample preservation. Container, preservative, and maximum holding time for pollution parameters to be analyzed should be in accordance with Table B-1. Sample preservations should be performed immediately upon collection, if feasible.

**Table B-1  
Containers, Preservation, and Holding times**

Parameter	Container	Preservative	Maximum Holding Time
1. CN(T)	Polyethylene/ Glass	Cool, 4°C NaOH, pH > 12	14 days
2. Hg	Polyethylene/ Glass	HNO <sub>3</sub> , pH < 2	28 days
3. Other metals	Polyethylene/ Glass	HNO <sub>3</sub> , pH < 2	6 months
4. Chemical Oxygen Demand (COD)	Polyethylene/ Glass	Cool, 4°C H <sub>2</sub> SO <sub>4</sub> , pH < 2	28 days
5. pH	Polyethylene/ Glass	Determine on site	2 hours
6. Oil & Grease	Glass	Cool, 4°C H <sub>2</sub> SO <sub>4</sub> , pH < 2	28 days
7. Suspended Solids	Polyethylene/ Glass	Cool, 4°C	14 days

**Appendix C  
Classification of Industrial Users**

SIC Code of Major Group, Group or Industry	Title
20	Food and Kindred Products
21	Tobacco Manufacture
22	Textile Mill Products
23	Apparel and Other Finished Products Made From Fabrics and Similar Materials
24	Lumber and Wood Products, Except Furniture
25	Furniture and Fixtures
26	Paper and Allied Products

- 27 Printing, Publishing and Allied Industries
- 28 Chemicals and Allied Products
- 29 Petroleum Refining and Related Industries
- 30 Rubber and Miscellaneous Plastic Products
- 31 Leather and Leather Products
- 32 Stone, Clay, Glass and Concrete Products
- 33 Primary Metal Industries
- 34 Fabricated Metal Products, Except Machinery and  
Transportation Equipment
- 35 Machinery, Except Electrical
- 36 Electrical and Electronic Machinery Equipment and Supplies
- 37 Transportation Equipment
- 38 Measuring, Analyzing and Controlling Instruments;  
Photographic, Medical and Optical Goods;  
Watches and Clocks
- 39 Miscellaneous Manufacturing Industries
- 40 Railroad Transportation
- 41 Local and Suburban Transit and Interurban  
Highway Passenger Transportation
- 42 Motor Freight Transportation and Warehousing
- 44 Water Transportation
- 45 Transportation by Air
- 47 Transportation Services
- 49 Electric, Gas and Sanitary Services
- 50 Wholesale Trade—Durable Goods
- 51 Wholesale Trade—Nondurable Goods
- 721 Laundry, Cleaning and Garment Services
- 7395 Photofinishing Laboratories
- 7399 Business Services, Not Elsewhere Classified  
(Solvents recovery service, on a contract basis)
- 7542 Car Washes
- 7699 Repair Shops and Related Services, Not Elsewhere Classified  
(Cesspool cleaning)  
(Replating shops)  
(Septic Tank cleaning service)  
(Sewer cleaning and rodding)  
(Tank and boiler cleaning service)  
(Tank truck cleaning service)
- 806 Hospitals

**Appendix D  
Pretreatment Standards**

1. Electroplating Point Source Category, 40 CFR Part 413.

**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**

**Appendix E**

**Industrial Waste Discharge Report**  
**INDUSTRIAL WASTE DISCHARGE REPORT FORM**

1. Company Name: \_\_\_\_\_

2. Location Address: \_\_\_\_\_ Mailing Address: \_\_\_\_\_

3. Reporting period covered by this report:

Quarterly Reporters

Jan.-Mar., 19\_\_\_\_

Apr.-June, 19\_\_\_\_

July-Sept., 19\_\_\_\_

Oct.-Dec., 19\_\_\_\_

Semi-annual Reporters

Jan.-June, 19\_\_\_\_

July-Dec., 19\_\_\_\_

Annual Reporters

19\_\_\_\_

4. Total days of operation during this reporting period \_\_\_\_\_

5. Total number of employees working during this reporting period \_\_\_\_\_

6. Quantity of waste discharge:

a). All Permittees.

Type	Total gallons in this reporting period	Determined by
Uncontaminated Cooling Water Discharged to:		
a). Storm Sewer		
b). Receiving Water		
Domestic or c). Combined Sewer		
Domestic Waste		
Industrial Waste		
Other		
Total		

b). Federal Categorical Pretreatment Industries Only.

Categorical Process Wastewater flow

EPA Category	Average gallons per day	Maximum gallons per day	% Total Discharge



**PROPOSED RULES**

7. Date and time frame of representative sample collection \_\_\_\_\_
8. Total volume discharged during sampling time frame \_\_\_\_\_
9. How was volume in Question 8 determined \_\_\_\_\_
10. Sampling Location \_\_\_\_\_
11. Method of Sample collection       manually                       automatically  
 Describe \_\_\_\_\_
12. Sample collected by                       Permittee                       other, name \_\_\_\_\_
13. Method of Sample compositing       manually                       automatically  
 Describe \_\_\_\_\_
14. Sample composited by                       Permittee                       other, name \_\_\_\_\_
15. Sample analyzed by                       Permittee                       other, name \_\_\_\_\_
16. Analytical results. A value should be reported for each parameter indicated in your Industrial Discharge Permit. Federal Categorical Pretreatment Industries should indicate all parameters regulated under EPA Pretreatment Standards from Categorical process wastewater. A copy of lab report(s) should also be attached.

Parameter	Total Discharge	EPA Category 1 (                      )	EPA Category 2 (                      )
Suspended solids	_____ mg/l	_____ mg/l	_____ mg/l
pH	_____ units	_____ units	_____ units
Chemical Oxygen Demand	_____ mg/l	_____ mg/l	_____ mg/l
Grease and oil	_____ mg/l	_____ mg/l	_____ mg/l
Chromium, total	_____ mg/l	_____ mg/l	_____ mg/l
Cadmium	_____ mg/l	_____ mg/l	_____ mg/l
Copper	_____ mg/l	_____ mg/l	_____ mg/l
Lead	_____ mg/l	_____ mg/l	_____ mg/l
Nickel	_____ mg/l	_____ mg/l	_____ mg/l
Zinc	_____ mg/l	_____ mg/l	_____ mg/l
Cyanide, total	_____ mg/l	_____ mg/l	_____ mg/l

Report Submitted by:  
 Name (PRINT): \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

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# PROPOSED RULES

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Authorized Representative: (Federal Categorical Pretreatment Industries Only)

Name (PRINT): \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

An Authorized Representative may be:

- 1). a principal executive officer of at least the level of vice president, if the Permittee is a corporation;
- 2). a general partner or proprietor if the Permittee is a partnership or sole proprietorship, respectively;
- 3). a duly authorized representative of the individual designated in (1) or (2) above if such representative is responsible for the overall operation of the facility.

**Appendix F  
Waste Transport Hauler Discharge Report**

DATE: \_\_\_\_\_

1. Company Name: \_\_\_\_\_

2. Location Address: \_\_\_\_\_ Mailing Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

3. Reporting Period covered by this report:  
 January-June, 19\_\_\_\_\_  
 July-December, 19\_\_\_\_\_

4. Number of trucks hauling liquid waste within this reporting period \_\_\_\_\_

5. List below the location of discharge, date and approximate time of discharge, volume, and a brief description of the waste characteristics.  
Attach extra pages if necessary.

Location of Discharge	Date and Time	Volume (gallons)	Description of Waste Characteristics

Form completed by:

Name (Print) \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Further contact should be addressed to:

Name (Print) \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

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# PROPOSED RULES

## Appendix G Industrial Discharge Permit Renewal Application

### INDUSTRIAL DISCHARGE PERMIT RENEWAL APPLICATION

DATE: \_\_\_\_\_

1. Company Name: \_\_\_\_\_

2. Location Address: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

3. Number of shifts per day \_\_\_\_\_

4. Number of employees per shift 1st \_\_\_\_\_ 2nd \_\_\_\_\_ 3rd \_\_\_\_\_

5. Number of operating days per week \_\_\_\_\_

6. Does your company plan any significant changes in production, business, or manufacturing in the next three years?  No  Yes (Describe)  
\_\_\_\_\_  
\_\_\_\_\_

7. Does your company plan any significant changes in either the quantity or quality of wastewater discharged in the next three years?  No  Yes (Describe)  
\_\_\_\_\_  
\_\_\_\_\_

8. Does your company plan to modify or expand its pretreatment system or equipment in the next three years?  Not applicable  No  Yes (Explain)  
\_\_\_\_\_  
\_\_\_\_\_

9. Is your firm's pretreatment compliance schedule in accordance with the timetable submitted in Section H(2)(b) of the initial Permit Application?  Not applicable  No (Explain)  Yes  
\_\_\_\_\_  
\_\_\_\_\_

10. (Waste Transport Haulers only) Number of trucks anticipated to haul wastes in the next three years? \_\_\_\_\_

NOTE: A PERMIT REISSUANCE FEE OF \_\_\_\_\_ SHOULD ACCOMPANY THIS APPLICATION.

I hereby certify that the above information is true and accurate to the best of my knowledge.

Form completed by:

Name (Print): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Phone: \_\_\_\_\_

Signature: \_\_\_\_\_

Further contact should be made to:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

## **Pollution Control Agency**

### **Proposed Rule for the Administration of the Minnesota Solid Waste Management Planning Assistance Program**

#### **Notice of Intent to Adopt a Rule without A Public Hearing**

Notice is hereby given that the Minnesota Pollution Control Agency (hereinafter "agency") intends to adopt the above-entitled rule without a public hearing. The agency has determined that the proposed adoption of this rule is noncontroversial in nature and has elected to follow the procedures set forth in Laws of 1980, ch. 615, § 7, for adoption of noncontroversial rules.

The proposed rule provides for the administration of the Minnesota Solid Waste Management Planning Assistance Program. This program is created and the agency is authorized to adopt this rule under the Waste Management Act (Laws of 1980, ch. 564, art. 5).

The agency has prepared a Statement of Need and Reasonableness that describes the agency's reasons for each provision of the proposed rule and identifies the data and information relied upon by the Agency to support the proposed rule. Copies of the Statement of Need and Reasonableness and the proposed rule are available from the agency by contacting:

Mr. Don Kyser  
Resource Planning Section  
Division of Solid Waste  
Minnesota Pollution Control Agency  
1935 W. County Road B2  
Roseville, Minnesota 55113  
Telephone: (612) 297-2704.

Interested persons have until October 10, 1980, to submit comments on the proposed rule. The proposed rule may be modified if the data and views submitted to the agency warrant modifications and the modification does not result in a substantial change in the proposed language.

If, during the comment period, seven or more persons submit to the agency a written request for a hearing on the proposed rule, the agency shall proceed to schedule a public hearing before adoption of the rule. The agency requests that if a person desires a public hearing, with the written request for a public hearing the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Persons who wish to submit comments or a request for a public hearing should submit such comments or requests no later than October 10, 1980, to Mr. Don Kyser at the address given above.

In the event a hearing is required, a new Notice of Hearing will be mailed out and published in the *State Register*. If no hearing is requested, the agency board will consider the adoption of the proposed rule at the October, 1980, board meeting or as soon thereafter as possible. Persons who wish to receive a copy of the final rule as proposed for adoption should submit a written statement of such desire to Mr. Kyser.

After adoption of the final rule by the agency board, the proposed rule, this notice, the Statement of Need and Reasonableness, all written comments received by the agency, and the final rule as adopted will be sent to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General should submit a written statement of such desire to Mr. Kyser.

Please be advised that Minn. Stat. ch. 10A (1978) requires each lobbyist to register with the Ethical Practices Board within five days after he/she commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250.00 per year or five hours per month lobbying. The statute in question provides certain exceptions. Questions should be directed to the Minnesota Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155. Telephone (612) 296-5651.

August 26, 1980

Terry Hoffman, Executive Director  
Pollution Control Agency

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## PROPOSED RULES

### Rule as Proposed (all new material)

#### 6 MCAR § 4.6085 Rule for the administration of the Minnesota solid waste management planning assistance program.

A. Purpose. This rule implements the solid waste management planning assistance program, created and described in Article V of the Waste Management Act of 1980, Minn. Stat. §§ 115A.42 through 115A.46 (1980), by establishing the substantive criteria and procedural conditions according to which the Agency shall award solid waste management planning assistance grants.

B. Overview of procedures for applying for and receiving a grant.

1. Application for a grant. To be eligible for a grant under these rules, an applicant shall make an application for a grant.

a. The procedures the applicant shall follow in applying for a grant are set out in E. of this rule.

b. The information and documentation the applicant shall provide in the grant application are set out in F. of this rule.

2. Award of a grant. The agency shall award the applicant a grant, in accordance with the procedures and limitations set out in G. of this rule, if the agency determines:

a. that the applicant specified in the grant application is grant eligible;

b. that the costs specified in the grant application are grant eligible; and,

c. that the project specified in the grant application is grant eligible.

The criteria the agency shall use in determining the grant eligibility of the applicant is set out in D.1. of this rule; the criteria the agency shall use in determining the grant eligibility of the costs is set out in D.2. of this rule; and, the criteria the agency shall use in determining the grant eligibility of the project is set out in D.3. of this rule.

C. Definitions.

1. "Acceptable plan" means a written report prepared by a grantee to determine and provide the planning information set out in Minn. Stat. § 115A.46 (1980). To be considered an acceptable plan under these rules, the written report shall:

a. contain descriptions, estimates or assessments of existing and proposed waste practices, including the following:

(1) A description of the existing collection, processing, and disposal systems used by the political subdivision(s) being studied by the named grantee, including schedules of rates and charges, financing methods, environmental acceptability, and opportunity for improvements in the systems;

(2) An estimate, calculated on the basis of current and projected waste generation practices, of the land disposal capacity in acre-feet which the political subdivisions being studied by the named grantee shall need through the year 2000;

(3) An assessment of opportunities to reduce the need for land disposal through the use of waste reduction and resource recovery [as defined in Minn. Stat. § 115A.03, subd. 27 (1980)], including an assessment of (a) the alternative degrees of reduction achievable, (b) the comparative costs of the alternatives (including capital and operating costs), and (c) the effects of the alternatives on the cost to generators of the waste.

(4) A description of existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste management, including a description of the existing and proposed regulations and enforcement procedures relevant to those requirements; and,

b. establish a siting procedure and development program to assure the orderly location, development, and financing of new or expanded solid waste facilities and services sufficient for a prospective ten year period, including (a) estimated costs and implementation schedules, (b) proposed procedures for operation and maintenance, (c) estimated annual costs of gross revenues and (d) proposals for the use of facilities after they are no longer needed or usable; and,

c. address the resolution of conflicting, duplicative or overlapping local management efforts, including the possible establishment of joint powers management programs or waste management districts; and,

d. establish a schedule of actions which need to be undertaken to put the procedures, programs and resolutions described in the plan into effect, including a statement of the appropriate entity to take each action.

2. "Agency" means the Minnesota Pollution Control Agency, as constituted pursuant to Minn. Stat. § 116.02, subd. 1 (1980).

3. "Director" means the Executive Director and Chief Executive Officer of the agency or a person expressly designated by the director to discharge a duty or responsibility of the director.

4. "Grant eligible" or "grant eligibility" means meets the criteria to receive funding assistance under these rules. The fact that an item or person is "grant eligible" under these rules does not automatically assure that a grant shall be awarded. A grant shall only be awarded if the grant eligibility criteria are met and if sufficient funds are available to cover the grant.

5. "Metropolitan area" has the meaning given it in Minn. Stat. § 115A.03, subd. 18 (1980).

6. "Political subdivision" has the meaning given it in Minn. Stat. § 115A.03, subd. 24 (1980).

7. "Regional development commission" has the meaning given it in Minn. Stat. § 115A.03, subd. 26 (1980).

**D. Grant eligibility criteria.**

1. Eligible applicants. Except for political subdivisions located within the seven county metropolitan area, any political subdivision within the State of Minnesota is grant eligible.

2. Eligible costs.

a. The following costs are grant eligible:

(1) Salaries of staff persons, consultants, and other persons employed to develop and publish an acceptable plan;

(2) Costs associated with the drafting and execution of necessary contracts between the grantee and other units of government or qualified consultants employed to develop or publish an acceptable plan; including, but not limited to, reasonable attorneys fees;

(3) Costs associated with holding meetings to inform the public of the development of the plan and to provide an opportunity for the public to participate in and comment on the development of the plan; including, but not limited to, costs associated with noticing and recording the meeting;

(4) Costs associated with the printing and distribution of plans and draft plan materials;

(5) Costs of any in-state travel, the primary purpose of which is to attend meetings or gather information needed for the development and publication of an acceptable plan; including, but not limited to, reimbursement for mileage consistent with state allowances;

(6) Costs of any necessary supplies required for the development and publication of an acceptable plan. (The costs of any commodities, materials, capital expenditures and equipment which could be used after the plan is completed shall not be considered supplies and are, therefore, not grant eligible under these rules); and,

(7) Overhead costs.

b. The amount of the grants available under this rule is limited as follows:

(1) For planning by a regional development commission, joint planning by two or more contiguous counties, or joint planning by political subdivisions located in two or more contiguous counties:

(a) The agency shall award grants to cover 90 percent of the eligible costs specified in the grant application; and,

(b) The grantee shall fund the remaining costs of completing the planning efforts.

(2) For all planning efforts other than that described in paragraph D.2.b.(1):

(a) The agency shall award grants to cover 50 percent of the eligible costs specified in the grant application; and,

(b) The grantee shall fund the remaining costs of completing the planning efforts.

(3) For D.2.b.(1) grants and D.2.b.(2) grants, the maximum amount that a grantee shall be awarded to complete the plan is 90 percent and 50 percent, respectively, of the total requested by the grantee in its application. Within these maximums, adjustments between funds awarded to cover the costs specified in D.2. shall be made if the agency and the grantee determine that such adjustments shall result in the development of an acceptable plan in a more efficient manner.

(4) If, while working to complete the grant, a grantee finds that more funds are needed, the grantee shall not be awarded additional funds unless the grantee makes application for an additional grant in accordance with the grant application procedures set out in E. of this rule. The agency shall treat an application for an additional grant in the same manner as it treats applications for original grants, as provided in G. of this rule.

c. Grants shall be awarded to cover the eligible costs of only those tasks which are undertaken and completed during the grant period established in the grant agreement. Grants shall not be awarded to cover any cost associated with tasks performed prior to the award of a grant or after the expiration of the grant agreement.

d. The availability of funds is a precondition to the award of any grant by the agency.

3. Eligible projects.

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## PROPOSED RULES

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a. The agency shall consider grant eligible all projects which are reasonably designed to result in the development and publication of an acceptable plan, as defined in B.1. of this rule.

b. The agency shall determine that a project is reasonably designed to result in an acceptable plan if the agency finds that the grant application required to be submitted under E. of this rule is complete. The agency shall determine that a grant application is complete if the application contains all the information and meets all the requirements set out in F.

### E. Grant application procedures.

1. For grants to be awarded during the fiscal year ending June 30, 1981:

a. As soon as possible and no later than April 15, 1981, a grant applicant shall submit a grant application to the agency.

b. The grant application to be submitted to the agency shall include all the information and documentation set out in F. of this rule.

c. Upon receiving a grant application, the director shall promptly review the application and shall make a determination as to:

(1) the eligibility of the applicant specified in the preliminary application;

(2) the eligibility of the costs specified in the preliminary application; and,

(3) the eligibility of the project specified in the preliminary application.

d. Within two weeks after receiving the application, the Director shall notify each applicant as to the director's determinations:

(1) If the director determines that the applicant, the costs and the project specified in the application are grant eligible, the application shall be considered final as of the date it was received and the applicant shall be so notified. The application shall then be treated in accordance with the agency review provisions established in G. of this rule.

(2) If the director determines that the applicant is not grant eligible, the application shall not be further considered and the applicant shall be so notified.

(3) If the director determines that any of the costs described in the application are not grant eligible or that the application is otherwise incomplete:

(a) The director shall note the inadequacies in the application and shall so notify the applicant;

(b) The applicant shall have an opportunity to cure the inadequacies noted by the director; except that, no information received by the agency after May 1, 1981, shall be considered by the director in determining the grant eligibility of the applicant, costs or project.

(i) An application which is considered inadequate under this section shall not be considered final until the agency receives the information or documentation which cures the inadequacies described by the director.

(ii) An application which is considered inadequate under this section shall be considered final on the date all necessary supplemental information is received by the agency.

(iii) Once the application is considered final, it shall be treated in accordance with the agency review provisions established in G. of this rule.

2. For grants to be awarded during all fiscal years other than that described in D.2.:

a. Preliminary grant applications. [reserved].

b. Final grant applications. [reserved].

### F. Grant application content.

1. Applications for grants to be awarded during the fiscal year ending June 30, 1981 shall include the following information:

a. The name(s) of each political subdivision(s) making the grant application;

b. Resolutions from each political subdivision named on the application which

(1) demonstrate the political subdivision's desire to make the grant application and interest in the planning efforts described in the grant application; and,

(2) demonstrate the political subdivision's commitment to provide the required financial input to complete the planning efforts described in the grant application;

c. In the case of a regional development commission, resolutions from each of the counties represented by the regional development commission, which demonstrate the counties' interest in and support for the planning efforts described in the grant application;



- d. The name(s) and address(es) of the project manager(s);
- e. Total project cost;
- f. Amount of grant funding requested;
- g. Amount and sources of all other funding contributions, including the amount of funds to be contributed by the applicant;
- h. Regional boundaries of and population in area to be considered in the planning study;
- i. A work plan which provides the following information and details:

(1) A brief description of the problem which the grantee hopes to address through the planning efforts; including, a statement of any known waste management problems to be addressed by the grantee and any present support or opposition to current or proposed solid waste disposal alternatives;

(2) A breakdown of the specific work tasks to be completed under the terms of the grant; including, but not limited to, each of the tasks required to be completed by Minn. Stat. § 115A.46 (1980);

(3) A breakdown of the number of work hours needed to complete each of the tasks specified in paragraph i.(2);

(4) A breakdown of all the costs associated with completing each of the tasks specified in paragraph i.(2), including an explanation of how each cost was calculated;

(5) A breakdown of the staff, consultants, and units of government associated with completing each of the tasks specified in paragraph i.(2);

(6) A breakdown of the amount of time needed to complete each of the tasks specified in paragraph i.(2); and,

(7) A description of the program to be completed by the applicant to ensure public participation in the planning efforts.

2. Applications for grants to be awarded during all fiscal years other than the one described in F.1. [reserved].

G. Agency review of grant applications and award of grants.

1. Review and award of grants to be awarded during the fiscal year ending June 30, 1981.

a. Grants shall be awarded to eligible grantees, to the extent funding is available, on a first come, first serve basis.

b. The agency shall make these first come, first serve determinations as follows:

(1) The director shall mark each and every application and supplemental submittal the agency receives with a notation of the date the application and submittal is received. The date the agency shall use in determining the rank of the application is the date that the application is considered final:

(a) For applications which are complete on the day they are submitted, the application shall be considered final on the date the application is received by the agency.

(b) For applications which require the submission of supplemental information to be complete, the application shall be considered final on the date all necessary supplemental information is received by the agency.

(c) In those instances in which more than one application is received by the agency during any one day, the priority status of the applications shall be determined by lottery.

(2) Once the grant application is considered final [as provided in E.1.d.(1) and (3)(b)], the director shall proceed as follows:

(a) Within four weeks after notifying the applicant that the application is considered final, the director shall draft a grant for the applicant, in accordance with the requirements and conditions set out in H. of this rule.

(b) At the next regularly scheduled meeting the agency holds after the grant is drafted, the director shall present the grant to the agency for its consideration and review.

(c) The agency shall review the director's determinations as to applicant, cost and project eligibility; and, if it agrees with these determinations, shall award the grant.

(d) The agency is authorized to delegate to the director the authority to issue grants under this program. If the agency delegates such authority to the director, the agency review provisions set out in b.(2)(ii) and (iii) are waived.

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## PROPOSED RULES

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2. Review and award of grants to be awarded during all fiscal years other than the one described in G.1. [reserved].

### H. Grant agreement.

1. The grant agreement shall incorporate by reference the final grant application submitted to the agency in accordance with E.1.d. of this rule.

2. The grant agreement shall establish the term of the grant. All grants awarded under this rule shall have a maximum term of one year.

3. Grants not being completed in accordance with the terms and conditions of the grant agreement, including time schedules, shall be forfeited unless the agency determines that the variances from the grant requirements are due to factors outside the control of the grantee.

4. The grant agreement shall include a payment schedule. This payment schedule shall provide for reimbursement of stated travel costs, in a manner described in the grant agreement, and shall require that ten percent of each payment made under the grant agreement be retained by the agency until the director determines that the report submitted under the grant is an acceptable plan. If the director determines that a report is deficient, the director shall notify the grantee of the deficiency. The agency shall pay the withheld ten percent of the grant as soon as the deficiency is corrected and the director determines that the report is an acceptable plan.

5. The grant agreement shall provide that, subject to the approval of the director, the grantee shall be authorized to enter into contracts to complete the work specified in the grant. The grant agreement shall further require that all such contracts name the agency as a third-party beneficiary to that contract.

### I. Apportionment.

1. For grants to be awarded during the fiscal year ending June 30, 1981, the agency shall apportion funds allocated to it by the legislature for the grant programs set out in Articles V and VI of the Waste Management Act, Minn. Stat. §§ 115A.42 through 115A.54 (1980), as follows:

a. Article V grants (grants awarded under these rules): forty percent of the amount appropriated to the agency; and,

b. Article VI grants (grants awarded under other rules): sixty percent of the amount appropriated to the agency.

c. If the agency receives more eligible requests for grant assistance under Article V than the agency has funds available and the agency receives less eligible requests for grant assistance under Article VI than it has funds available, the agency shall adjust the apportionment described in this part. Similarly, if the agency receives less eligible requests for grant assistance under Article V than the agency has funds available and more eligible requests for grant assistance under Article VI than it has funds available, the agency shall adjust the apportionment described in this part. No such adjustment shall be made until the last date that final grant applications are permitted to be submitted to the agency under this rule and the rule developed to implement Article VI of the Waste Management Act.

2. For grants to be awarded during all fiscal years other than that described in paragraph I.1., the agency shall apportion funds allocated to it by the legislature for the grant programs set out in Articles V and VI of the Waste Management Act, Minn. Stat. § 115A.42 through 115A.54 (1980), as follows: [reserved].

J. Severability. If any provision of this rule or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect any other provision or application of any other part of this rule or any other rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule and the various applications thereof are declared to be severable.

## Department of Public Welfare Bureau of Social Services

### Proposed Amendments to Rule Governing Subsidized Adoption

#### Notice of Intent to Adopt Amendments to A Rule without a Public Hearing

Notice is hereby given that the Department of Public Welfare is proposing to adopt amendments to the attached adoption rule (12 MCAR § 2.200).

All persons have 30 days from the date of this notice in which to submit comments on the proposed rule amendment. All written comments will be reviewed by the Department of Public Welfare and, if no hearing is required, then by the Office of the Attorney General, Administrative Division. The rule may be modified based upon the data and views submitted.

Any person may also, within the 30 day period, make a written request for a public hearing on the rule. If seven or more persons make a written request for a hearing on the rule, a public hearing will be held according to the provisions of Minn. Stat. § 15.0412.

Persons desiring to make written comments on the rule or desiring to make a written request for a public hearing on the rule should address their correspondence to:

Ruth Weidell  
Adoption Unit  
Department of Public Welfare  
Centennial Building  
St. Paul, MN 55155  
(612) 296-3740

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the Department of Public Welfare. This Statement of Need and Reasonableness includes rationale justifying both the need for and the reasonableness of the proposed rule amendments. Copies of the Statement of Need and Reasonableness may be obtained from Ruth Weidell, Department of Public Welfare.

If you have questions on the content of any of the rules, please call Ruth Weidell at 612/296-3740.

Persons desiring to be notified when the hearing file (the proposed rule, this Notice, the rule proposed to be adopted, the Statement of Need and Reasonableness and copies of the public comments) is submitted to the Attorney General, Administrative Division, may either call or write Ruth Weidell. The Attorney General shall approve or disapprove the rule as to form and legality and determine whether a substantial change has been made in the rule to be adopted.

The Department's authority to adopt the proposed rule is contained in Minn. Stat. § 259.45, subd. 10, (Supp. 1979).

Below are some of the highlights and background to the proposed rule amendments:

From 1969 to 1979, the 87 county social service agencies administered the subsidized adoption program for state wards adopted by families who could not meet special needs costs. Not many wards were adopted under this statute. The 1979 Legislature repealed that subsidy statute and enacted a state-administered subsidy program. An appropriation of \$500,000 was made for the biennium.

There were about 223 subsidized adoptions existing when the new law went into effect July 1, 1979. A policy bulletin was issued in August, 1979 to maintain and transfer extant subsidized adoptions and to facilitate new subsidized adoptive placements. A temporary rule was adopted March 13, 1980 with the time extended to the maximum 180 days to work toward permanent rule.

The basic purpose of the new legislation is to ensure the adoption of Minnesota children who are under guardianship of an agency and have special needs. The children have maintenance, medical or other special costs which would prohibit their opportunity for adoption if a subsidy were not available.

The provisions in rule establish the standards and procedures for agencies to implement the statute. The placing agency responsible for the child must document the facts upon which the agency certifies to the commissioner the child's eligibility for subsidy.

The agency must determine the amount of subsidy the child needs by considering what other financial and health resources and benefits are available to the child. The adoption subsidy is determined by the amount of maintenance, medical or other costs necessary to the child's care and well-being and not covered by other resources.

After documenting the child's needs and the amount of the subsidy, the agency prepares the agreement, specifying the terms, the effective date, and the duration of the agreement. This agreement sets forth the responsibilities of the placing agency, the adoptive parents and the Commissioner of Public Welfare. The adoptive parents agree to submit an annual affidavit concerning the child's continued care and need for subsidy. The parents also agree to notify the commissioner of any changes which affect the amount of the subsidy.

The placing agency agrees to assist the commissioner or the adoptive parents, subsequent guardian or conservator, in the review or modification of the agreement.

The commissioner agrees to make payments as specified in the agreement unless terminated at the request of the adoptive parents, subsequent guardian or conservator, regardless of their residence or domicile.

When the terms and duration of the subsidy are agreed upon, the adoptive parents and the placing agency director or designee sign all copies of the agreement which are then submitted to the State Adoption Unit for the commissioner's approval.

**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

The adoptive parents may request modification or termination of the agreement at any time. They have the right to appeal by written request to the commissioner when the commissioner denies, discontinues or modifies the agreement. Subsidy payments received shall not affect a person's eligibility for other financial payments to which the person may be entitled.

The rule also addresses subsidy reimbursement to the placing agency which provides or purchases adoption services for a child certified as eligible for a subsidy. Reimbursement is to be made for partial or full cost that is not reimbursable under other state or federal programs.

The rule includes the definitions of placing agency and "subsidized adoption." It also states that the commissioner shall work with American Indian adoption agencies able to be licensed. American Indian children certified as eligible for subsidy shall, whenever possible, be served by the tribal governing body, tribal courts or a licensed Indian child placing agency.

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption.

September 8, 1980

Arthur E. Noot, Commissioner  
Department of Public Welfare

### Permanent Rule as Proposed

#### 12 MCAR § 2.200 Adoption.

##### A. Introduction.

##### 2. Definitions.

j. ~~i.~~ Placing agency: The Minnesota licensed child placing agency which has guardianship of a child from a Minnesota court or the local social service agency which has financial responsibility for a ward of the Commissioner of Public Welfare. The placing agency retains planning responsibility for the child even though another agency is supervising.

k. ~~j.~~ Post-placement services: Social services provided to the child and the adoptive parents from the time of placement until legal adoption.

l. ~~k.~~ Post-adoption services: Social services provided after legal adoption to the adoptive parents, genetic parents or adopted individuals.

m. ~~l.~~ Relative: An individual who is related to a child within the third degree according to the Civil Table of Consanguinity by blood, marriage or adoption as a parent, stepparent, brother, sister, grandparent, great grandparent, aunt, uncle, niece or nephew.

n. ~~m.~~ State Adoption Exchange: The central adoptive home and child registration service operated by the Minnesota Department of Public Welfare's adoption unit for use by authorized child-placing agencies.

o. ~~n.~~ State agency: The Commissioner of Public Welfare or the Minnesota Department of Public Welfare.

~~o.~~ Subsidized adoption: An adoptive placement in which a contract provides that financial reimbursement will be made to the adoptive parents with financial needs for a child who has special needs.

p. Subsidized adoption: An adoption in which an agreement provides that financial payments shall be made to the adoptive parent(s), subsequent guardian or conservator because of special needs of a child who is certified as eligible for subsidy.

q. ~~p.~~ Suitability study: The pre-adoptive counseling and subsequent evaluation made by the authorized child-placing agency to determine whether or not the proposed adoptive home can adequately parent and meet the social, educational and health needs of a particular child.

##### C. Services for children freed for adoption.

1. State Adoption Exchange. To ensure each child's placement in an adoptive home preferably away from his area of prior residence, the State Adoption Exchange shall be used by all local social service agencies in accordance with prevailing procedures established by the commissioner. This provision shall not apply to the licensed child placing agencies, Hennepin, Ramsey, or St. Louis Counties, whose use of the exchange is optional.

a. The local social service agency shall, without undue delay, seek an adoptive home which will meet the child's special needs. Special needs include sibling ties, racial or religious heritages, and health, social, and educational needs.

b. The local social service agency shall make reasonable efforts to provide and preserve the child's heritage by placing the child:

- (1) In an adoptive home of similar background; or

(2) In an adoptive home which is knowledgeable and appreciative of the child's heritage.

2. The child's foster home. The local social service agency may consider the foster home in which the child is currently living as a potential adoptive resource for the child.

a. In such cases, at least one of the following criteria shall apply:

(1) The child has special needs (physical and mental health, education or social) which the foster family will be able to adequately meet.

(2) The child is older than an infant, has lived at least twelve consecutive months in the foster home, and is an integrated member of the foster family.

(3) The foster family will be able to accept the child and his background and help the child understand his adoption.

(4) The foster family is either the best adoptive resource for the child or is at least comparable to available resources.

b. Except in Hennepin, Ramsey and St. Louis Counties, a joint decision between the state agency's adoption unit and the local social service agency as to whether the foster home would be a suitable adoptive home for the child shall be made. The decision shall be based upon:

(1) The local social service agency's written statement and recommendation to the state agency identifying applicable criteria; and

(2) The state agency's written response either approving or disapproving the recommendation.

c. Where a licensed child-placing agency, which is supervising a child under state guardianship, wishes to consider the foster home as the adoptive resource for the child, it shall obtain approval from the local social service agency which has financial responsibility.

3. Child placement. The following policies shall govern the local social service agency's child-placing activities:

a. Preplacement activities:

(1) The social worker assigned to the adoptive home shall, prior to the child being placed in the adoptive home, visit the child in his foster home. This preplacement visit may only be waived if the child is under six months of age and is without special needs.

(2) The child's social worker shall provide the adoptive parents with a written genetic and health history of the child in which all identifying information on the child's relatives has been omitted. The history is to be written in a manner which is understandable and meaningful to the adoptive family.

(3) An adoptive family shall spend at least two days in the child's community becoming acquainted with the child prior to the transfer of physical custody from the agency to them. This provision may be waived in the discretion of the agency, where extraordinary circumstances dictate prompt placement.

~~4. Subsidized adoptions. Subsidized adoption is available through the local social service agency for a child under state guardianship who is not readily adoptable because of special needs (due to age, race, physical, mental, or emotional conditions, his membership in a sibling group) and whose prospective family is unable to adopt him due to financial limitations.~~

~~a. The amount of the maintenance subsidy paid by the local social service agency shall not exceed the county welfare or human service board's schedule of regular or special rate payments for a child in foster care.~~

~~b. The amount of a health subsidy shall include the estimated cost for medical and health care, treatment and/or therapy.~~

~~c. A subsidized adoption contract shall be reduced to writing on the local social service agency's official stationery, signed by all relevant parties and approved by the Commissioner prior to legal adoption.~~

~~(1) Once fully executed and approved, all parties shall be given copies of the contract.~~

~~(2) A copy of the contract is to be filed with the proper court prior to the time the adoption matter is heard.~~

~~(3) The contract shall remain in effect even though the family moves out of the State of Minnesota.~~

~~(4) The contract shall be reviewed annually by the subsidizing county welfare or human service board to determine whether significant changes have occurred in the needs of the child or the financial resources of the parents which require amendment of the contract.~~

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## PROPOSED RULES

(5) The adoptive parents have the right to appeal to the Commissioner pursuant to Minn. Stat., ch. 15, when the county welfare or human service board denies, discontinues or modifies the contract.

d. The local social service agency is entitled to seek reimbursement of its subsidy expense from the State's Child Welfare Fund up to the legislatively authorized percentage.

e. The following procedures shall be implemented when initiating an adoption subsidy:

(1) When considering the child's need for subsidy:

(a) Review the child's eligibility for alternative financial and/or medical resources;

(b) Process through the State Adoption Exchange for a review of suitable homes; and

(c) Utilize the public media to recruit adoptive resources.

(2) When attempting to establish the amount of subsidy:

(a) Determine the amount of the child's financial and medical benefits, if any;

(b) Determine the family's financial and medical resources for meeting the child's special needs; and

(c) Obtain preliminary approval from the county welfare or human service board for a medical and/or maintenance subsidy.

(3) Each subsidized adoption contract shall include:

(a) A statement of the purpose of the agreement: maintenance, medical and/or special needs of the child;

(b) The arrangements for payment and receipt of the subsidy.

4. Subsidized adoptions. This section provides standards for determining a child's eligibility for subsidy and the criteria for establishing the terms of the subsidy agreement. Subsidized adoption is based upon the needs of the child who is certified as eligible for subsidy and is available through the Commissioner of Public Welfare for a child under legal guardianship of the commissioner or licensed child placing agency. The commissioner may review and verify the facts upon which the child's eligibility is based.

a. The placing agency shall document in the child's case record all facts upon which the agency certifies the child as eligible for subsidy.

b. The placing agency may determine that subsidy is needed for children placed as sibling groups, children who are entitled to placement with a family of similar ethnic background (i.e., American Indian, Black, Hispanic, Asian), and children with special needs, for whom adoptive homes are not readily available. Special needs include medical, dental and surgical expenses, psychiatric and psychological expenses, maintenance costs, and other costs necessary for the child's care and well-being.

c. The placing agency shall certify the child as eligible for subsidy when the following criteria are met:

(1) The child is a Minnesota resident and a ward of the commissioner or licensed child placing agency.

(2) The agency shall make an early determination on the availability of a home without subsidy, preferably within two months of the child becoming legally available for adoption.

(3) A child shall be eligible for subsidized adoption by his/her foster parents if the following criteria are met and documented:

(a) The child's foster parents desire to adopt the child, and

(b) The agency determines the adoption is in the best interest of the child, according to the criteria established in C.2. of this rule, and

(c) The child's circumstances or characteristics make it difficult for the agency to provide the child a home without a subsidy; or

(4) The placing agency has made reasonable efforts without success to place the child without subsidy. Such efforts include the following:

(a) The agency shall register the child on the State Adoption Exchange to obtain adoptive home referrals.

(b) The agency shall contact Hennepin, Ramsey, St. Louis Counties and Minnesota-based licensed child placing agencies to seek potential adoptive homes.

(c) The agency may use photo listing services, adoption exchange services, newsletters or other special efforts to secure a home.

(5) When the child is placed into a prospective adoptive home without a subsidy but the need for subsidy becomes

evident prior to legal adoption, the placing agency shall apply the criteria in C.4.c.(1) and (3) to determine the child's eligibility for subsidy.

(6) The placing agency shall certify to the commissioner, in writing under its director's or designee's signature, the child's eligibility for subsidy. The statement shall include the conditions or circumstances upon which the child's eligibility is based.

d. When determining the amount of subsidy, the placing agency shall consider the financial resources, social security and veterans benefits, health insurance coverage, medical assistance programs, and other resources available or which may be available to the child.

(1) Maintenance. Maintenance payments shall be provided as necessary to ensure the adoption of a child. The placing agency shall refer to DPW Rule 44, 12 MCAR 2.044, to determine the amount of a child's monthly maintenance needs for food, clothing allowances, supplies and transportation. The total monthly maintenance payments may be less than, equal to or more than the basic rate. Amounts greater than the basic rate shall be set according to the difficulty of care standards and the need for the greater amount shall be documented.

(2) Medical. The placing agency shall determine the medical, dental, surgical, psychiatric, and psychological expenses, and other related costs necessary for the child's care and well-being. In determining the costs, the placing agency shall identify the child's circumstances or conditions that require subsidy. The placing agency shall:

(a) Document the kind and amount of health insurance or other medical financial resources available to meet the needs of the child.

(b) Document the actual or estimated expenses for medical, dental, surgical, psychiatric, psychological or other related needs of the child which are not covered by health insurance and/or other alternative financial or medical resources.

(3) Special costs. The placing agency shall determine whether other costs not included in (1) and (2) of this section are necessary for the child's care and well-being. The placing agency shall specify the child's needs and document the actual or estimated expenses required to meet that need.

(4) The agency record and the subsidy agreement shall include all relevant facts upon which subsidy payments are based, the amount and frequency of payments. If the amount and frequency of payments are unknown, estimates and the basis for them shall be included.

e. The placing agency shall prepare in writing the Subsidized Adoption Agreement clearly setting forth the responsibilities of all the parties and the terms and duration of the agreement.

(1) The agreement shall state the responsibilities of the parties as follows:

(a) The adoptive parent(s), or in the event of their death or inability to function as parent(s), the subsequent guardian or conservator, shall agree to:

(i) Submit to the commissioner a written statement each year within thirty (30) days of the anniversary date of the approved agreement to certify whether the child remains under their care and the need for subsidy continues to exist.

(ii) Notify the commissioner within thirty (30) days in the event of change in status and its effect on the expenses covered by the subsidy:

(aa) Marriage of child or parent.

(bb) The child's absence from the home by court action or for any reason for a period of more than thirty (30) days.

(cc) Death of child or parent.

(dd) Legal emancipation of the child.

(iii) Notify the commissioner within thirty (30) days of any change which may affect the duration or amount of the subsidy needed.

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## PROPOSED RULES

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(iv) Notify the commissioner within thirty (30) days of a change in address to ensure proper mailing of payments.

(v) Participate in and use health insurance and financial programs available for the child.

(vi) Notify the commissioner at least thirty (30) days before a planned medical or special expense is incurred to ensure prompt payment after expense statements are submitted to the commissioner.

(vii) Notify the commissioner soon after an emergency of the anticipated cost so that the commissioner may begin to budget for that expense.

(viii) Submit expense statements to the commissioner to receive subsidy payments for incurred costs over and above agreed upon monthly payments, but within the parameters of the agreement.

(b) The placing agency shall agree to:

(i) Specify in the agreement:

(aa) The terms and duration of the subsidy as defined in C.4.d.

(bb) The effective date of the agreement which shall be the date of legal adoption. When the child's needs cannot be met by state and federal programs or other available resources prior to legal adoption, the commissioner shall establish an earlier effective date between the child's placement in the adoptive home and legal adoption.

(ii) Assist the parent(s), subsequent guardian or conservator in the review or modification of the agreement.

(iii) Assist the commissioner in the review or modification of the agreement.

(c) The commissioner shall agree to make financial payments to the adoptive parent(s), subsequent guardian or conservator, as follows:

(i) Payments regardless of the domicile or residence of the adopting parent(s), subsequent guardian or conservator at the time of application for adoptive placement, legal decree of adoption, or thereafter.

(ii) Monthly payments for the agreed upon maintenance costs and other regular costs as specified in the agreement.

(iii) Payments based upon the expense statements received from the adoptive parent(s), subsequent guardian or conservator for the child's medical or special expenses which are within the parameters of the agreement.

(iv) Payments may be terminated at the request of the adoptive parents, subsequent guardian or conservator.

(2) When the terms and duration of the subsidy are agreed upon by the parties, the placing agency shall:

(a) Prepare six written copies of the agreement.

(b) Insure that all copies are signed by the adoptive parent(s) and the placing agency director or designee.

(c) Submit all copies to the State Adoption Unit for the commissioner's approval.

(3) Upon commissioner's approval, copies of the agreement shall be distributed to the adoptive parent(s) and placing agency. The state agency shall establish an account to reimburse the adoptive parent(s), subsequent guardian or conservator upon the effective date of the agreement or, in instances when monthly payments are made, the month beginning closest to the effective date.

(4) The subsidy agreement shall continue in accordance with its terms as long as the need for subsidy continues and the child remains the legal dependent of the adoptive parent(s), subsequent guardian or conservator.

(5) The terms of the agreement shall be reviewed and appropriately modified when significant changes in the child's status occur.

(6) The parent(s) may request modification or termination of agreement at any time by contacting the placing agency or the commissioner.

(7) The adoptive parents have the right to appeal to the commissioner pursuant to Minn. Stat. § 256.045, when the commissioner denies, discontinues, or modifies the agreement. The appeal shall be initiated by a written request to the commissioner within thirty (30) days after receiving written notice of the action or decision from the commissioner or within ninety (90) days if the parent(s) show good cause why the request was not submitted within the thirty (30) day time limit.

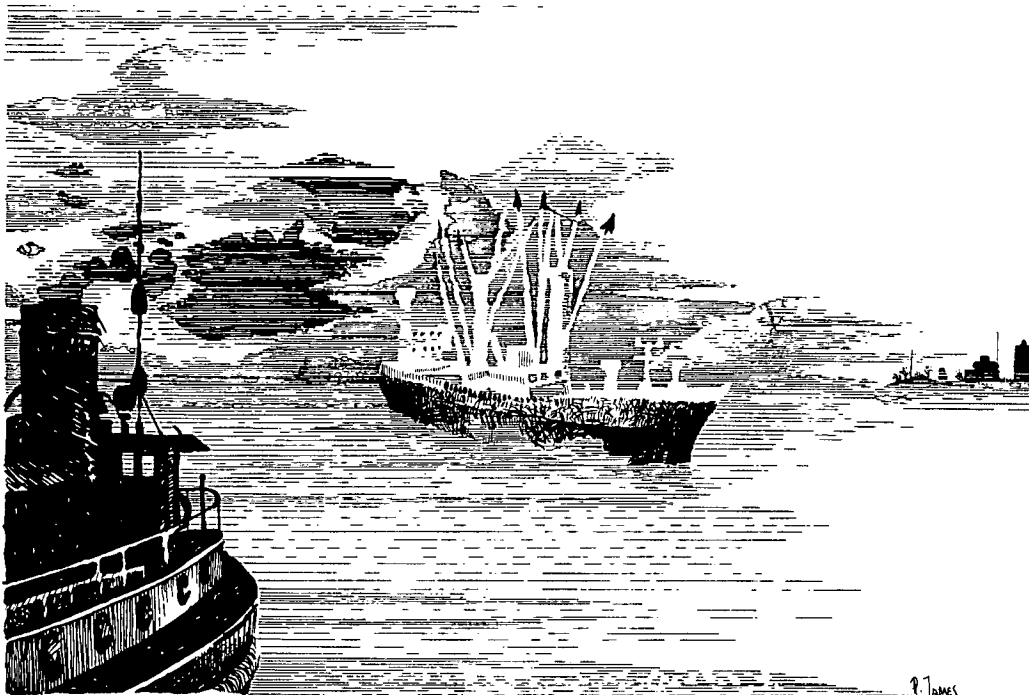
f. Subsidy payments received according to the terms of the agreement, shall not affect eligibility for any other financial payments (i.e., social security, veterans, or other benefits) to which a person may otherwise be entitled.



g. The placing agency shall receive a reimbursement from the commissioner equal to 100% of the reasonable and appropriate cost of providing or purchasing adoption services for a child certified as eligible for a subsidy, including when necessary adoptive family recruitment, counseling, special training and legal fees for finalization. The criteria for reimbursement are:

- (1) The child meets the certification requirements of C.4.c.
- (2) The child has achieved either an adoptive placement or a legal adoption prior to the agency claim for reimbursement.
- (3) The placing agency has determined that either partial or full cost of providing or purchasing the adoption services is not reimbursable under other state and federal financial programs.
- (4) The placing agency shall submit purchase of service agreements to the Commissioner for review of anticipated expenses.
- (5) The placing agency shall notify the State Adoption Unit in writing when the agency anticipates that its expenses may exceed \$3,000 for adoption services on a child certified as eligible for subsidy.
- (6) The placing agency shall submit an itemized statement of expenses to the State Adoption Unit for reimbursement prior to June 30 of each fiscal year.
  - (a) The itemized expenses shall not exceed the prevailing costs for similar services to children under agency care.
  - (b) The commissioner shall reimburse the placing agency for 100% of the expenses that are not reimbursable under other state and federal programs.

h. The commissioner shall work with American Indian child adoption organizations able to be licensed as child placing agencies. American Indian children, who are protected under the Federal Indian Child Welfare Act of 1978 (25 U.S.C. § 19 *et seq.*) and who are certified as eligible for subsidy shall, whenever possible, be served by the tribal governing body, tribal courts or a licensed Indian child placing agency.



ORE BOATS, or lakers, have been a familiar sight on Lake Superior since the 1890s when the first train loaded with iron ore rolled into Two Harbors, Minnesota. Last year, 7.7 million tons of iron ore left the Port of Duluth-Superior for steel manufacturing centers on the lower Great Lakes. Another 20-30 million tons were shipped from the ports of Two Harbors, Silver Bay and Taconite Harbor. (Drawing by Ric James)

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# ADOPTED RULES

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

If an adopted rule is identical to its proposed form as previously published, a notice of adoption 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.

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## Board of Peace Officers Standards and Training

### Adopted Rules Relating to the Licensing of Peace Officers, Part-Time Officers and Constables

The rule amendments proposed and published at *State Register*, Volume 4, Number 51, pp. 1971-1973, June 23, 1980 (4 S.R. 1971) are now adopted, with the following amendments:

#### Amendment as Adopted

#### 4 MCAR § 13.014 Provisional part-time officer/constable license.

C. This rule applies to individuals appointed or elected to the position of part-time officer pursuant to Minn. Stat. § 626.8464.

# SUPREME COURT

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## Decisions Filed Friday, August 29, 1980

### Compiled by John McCarthy, Clerk

#### 50025/80 State of Minnesota vs. Kenneth Reed Filipi, Appellant. Dakota County.

Hearsay information supported a finding of probable cause in arrest where the informant obtained the information in a reliable manner, and corroborating factors provided a substantial basis for believing the hearsay was trustworthy.

City police officers outside their jurisdiction possessed the arrest powers of private persons. The arrest of defendant was lawful where a felony had in fact been committed and there was reasonable cause to believe that defendant committed it.

Warrantless seizure of marijuana from a duffel bag inside an automobile was unconstitutional, and that evidence should have been suppressed.

Affirmed in part, reversed in part. Otis, J. Took no part, Amdahl, J.

#### 49416/438 (1979) Jack Frost, Inc. vs. Engineered Building Components Company, Inc., defendant and third-party plaintiff, Foley Fuel and Lumber Company, Inc., defendant and third-party plaintiff, vs. Hydro-Air Engineering, Inc., third-party defendant, Appellant. Morrison County.

The trial court was correct in granting plaintiff's post-trial motion to amend the pleadings to make Hydro-Air Engineering, Inc., originally a third-party defendant, a direct party defendant where Hydro-Air Engineering, Inc. impliedly consented to trial of the issue of its liability to plaintiff. Minn. R. Civ. P. 15.02.

The evidence adduced at trial was sufficient to support the jury's findings that defendant designer was negligent in designing the product, that defendant designer had supplied defendant manufacturer of the product with a defective design for the product, and that defendant designer's negligence was a direct cause of 55% of plaintiff's loss.

Defendant manufacturer is not entitled to indemnity against defendant designer because defendant manufacturer was itself causally negligent with respect to plaintiff's loss.

The trial court did not abuse its discretion when it decided that the misconduct of counsel for defendant manufacturer did not necessitate a new trial.

Defendant retailer is not entitled to recover attorneys' fees from defendant manufacturer where defendant retailer was required to defend claims of plaintiff arising out of defendant retailer's own wrongful conduct and failed to tender defense of the action to defendant manufacturer.

Affirmed in part; reversed in part and remanded. Peterson, J. Took no part, Otis, J., and Amdahl, J.

**50104/125 Imogene M. Rogers, petitioner, vs. Robert L. Rogers, Appellant. Hennepin County.**

In a marriage dissolution proceeding, where the value of the husband's interest in his key-man services corporation was in dispute, where there were defects in the valuation methods urged at trial, and where the findings and conclusions of the trial court valuing the interest for purposes of a property settlement were not fully explained, the case is reversed and remanded for reconsideration and more specific findings.

Reversed and remanded with instructions. Peterson, J. Took no part, Amdahl, J.

**49674, 50333/158 Cecilia Parr, et al., Appellants, vs. Arthur Cloutier, d.b.a. Fred's Cab, et al. Pennington County.**

In an automobile negligence action, the reduction of a judgment, rather than the actual verdict, by an amount equal to economic loss benefits paid or payable is authorized by Minn. Stat. § 65B.51, subd. 1 (1978), and is in furtherance of the policy eliminating double recovery by an insured.

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

**50315/222 In the Matter of the Welfare of Bradley Brown, Brenda Brown, Peter Brown, and Scott Brown, Children. Carver County.**

In this proceeding to terminate parental rights, medical and social workers' reports, evaluations, and summaries relating to physical and psychological problems of two of appellant's children were records admissible under Minn. R. Evid. 803(6). To the extent the Juvenile Court Rules are inconsistent with the Rules of Evidence and the Rules of Civil Procedure for Municipal Courts, applicable in County Courts pursuant to Minn. Stat. § 487.23, subd. 1 (1978), the Juvenile Court Rules have been superseded.

The evidence adduced to establish the existence of the grounds specified in Minn. Stat. § 260.221(b) (2) (1978) for termination of appellant's parental rights was clear and convincing.

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

**50666/263 State of Minnesota vs. Robert John Lothenbach, Appellant. Ramsey County.**

Rule 14.01, Minn. R. Crim. P., does not permit the conditional guilty plea, that is, a plea by which the defendant pleads guilty but expressly reserves the right to appeal the denial of his motion to suppress evidence on constitutional grounds; however, in the interests of judicial economy, rather than require defendant in this case to go through the ritual of withdrawing his conditional guilty plea, entering a not guilty plea, and then stipulating to the state's case in order to obtain appellate review of the Fourth Amendment claim, we consider the issue at this time.

Motor vehicle exception to the search warrant requirement did not apply because police did not have probable cause to search, and police failed to establish that they had articulable suspicion justifying a limited protective search for weapons.

Reversed. Peterson, J. Took no part, Amdahl, J.

**50425/Sp. State of Minnesota vs. Christopher N. Miles, Appellant. Hennepin County.**

Identification procedures used by police did not create a very substantial likelihood of irreparable misidentification requiring suppression of eyewitness identification evidence.

Trial court did not err in refusing to submit lesser offense of simple robbery.

Affirmed. Todd, J.

**50966/315 State of Minnesota vs. Ellis Olkon, Appellant. Hennepin County.**

Defendant's argument that the prosecution engaged in misconduct which denied defendant a fair trial is rejected.

The trial court did not err in admitting into evidence the tape recordings of communications between defendant and an undercover police officer which were obtained without a warrant but which were consented to by the police officer.

The trial court did not abuse its discretion by permitting the jury, while listening to the recorded conversations between defendant and the undercover police officer, to refer to transcripts of those recordings.

There was no inconsistency in the jury verdict for which a new trial is required.

Defendant was properly indicted on two counts of attempted theft and two counts of conspiracy.

The trial court adequately instructed the jury on the issue of reasonable doubt.

The trial court did not err in accepting a partial jury verdict.

## SUPREME COURT

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No prosecutorial misconduct occurred during the grand jury proceedings which required a dismissal of the indictment against defendant. There was sufficient evidence for the jury to find beyond a reasonable doubt that defendant committed the crimes of attempted theft by swindle. The trial court did not err in dismissing the defense of entrapment.

The trial court did not abuse its discretion in determining to call only six jurors to testify at the "Schwartz" hearing or in limiting the scope of inquiry at those proceedings.

Affirmed. Todd, J. Dissenting, Yetka, J., and Wahl, J. Took no part, Amdahl, J.

### **50411/276 Lamb Plumbing & Heating Co. vs. Kraus-Anderson of Minneapolis, Inc., Appellant. Hennepin County.**

Where a general contractor knows of certain ambiguities in a prime contract and a subcontractor does not, and the general contractor does nothing to clarify the agreement even though he must realize that an alternative meaning may very well be attached to the ambiguous terms than the meaning he himself attaches to it, he will be therefore bound in accordance with the subcontractor's interpretation.

Affirmed. Scott, J. Took no part, Amdahl, J.

### **50689/Sp. The Commissioner of Revenue vs. Charles E. and Doris Stamp, Relators. Tax Court.**

Where taxpayers expressed the intent to change their domicile from Minnesota to Florida, Tax Court properly considered evidence of their acts and circumstances, including evidence that they did not abandon their Minnesota home, in evaluating the sincerity of their announced intent.

Tax Court's finding that taxpayers lacked the requisite intent to effect a change of domicile is supported by the record.

Affirmed. Wahl, J.

### **49618/90 State of Minnesota vs. James Montgomery Spaulding, Appellant. Hennepin County.**

Defendant was not denied due process when the state reinstated two charges in the complaint on retrial after defendant successfully set aside his conviction.

The state's reinstatement of two charges in the complaint on retrial after defendant successfully set aside his conviction did not violate Minn. Stat. § 609.035 (1978).

Although defendant's conduct did not seem unreasonable under the circumstances, given this court's limited scope of review on fact questions, the evidence was sufficient to support defendant's conviction for aggravated assault and felon in possession of a pistol.

The remarks of the prosecutor in closing argument did not constitute reversible error.

The trial court's instructions to the jury on necessity and self-defense, considered as a whole, were sufficient.

The trial court abused its discretion by instructing the jury that no testimony would be reread and by categorically refusing to consider the jury's request to read defendant's testimony.

Reversed and remanded for a new trial. Wahl, J. Took no part, Kelly, J., and Amdahl, J.

### **50946/318 The Commissioner of Revenue vs. Applebaum's Food Markets, Inc., Relator. Tax Court.**

The sale of hot chicken, hot turkey, hot chicken parts, hot turkey parts, and party trays in the delicatessen departments of Applebaum's Food Stores is not subject to Minnesota sales tax.

Reversed and remanded for proceedings not inconsistent with this opinion. Wahl, J. Took no part, Amdahl, J.

## **Decision Filed Friday, August 22, 1980**

### **50421/223 Leland Grapevine vs. City of Worthington, Employer, and Allied Mutual Insurance Company, insurer, Relator, Blue Cross & Blue Shield of Minnesota, intervenor, and Federated Insurance Company, intervenor. Workers' Compensation Court of Appeals.**

The finding that the City of Worthington had actual knowledge within the meaning of Minn. Stat. § 176.141 (1971) of the disabling work-related heart attack suffered by employee, a member of the city's volunteer fire department, has sufficient basis of inference reasonably to be drawn from the facts and will therefore not be disturbed on appeal.

The opinion of a medical expert that there was a causal relationship between employee's first work-related heart attack and a subsequent heart attack was sufficiently certain that it was entitled to receive consideration by the trier of fact.

Affirmed. Todd, J. Dissenting, Otis, J. Took no part, Amdahl, J.

# STATE CONTRACTS

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Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

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## Department of Health Accounts and Finance Section

### Notice of a Request for Proposal for the Establishment of a Depository Relationship for the Purpose of Expediting, Processing and Collection of Various Items

The Minnesota Department of Health is interested in soliciting bids for the continuation of banking services for the Special Supplemental Food Program for Women, Infants and Children. The current contract for services expires September 30, 1980. An RFP is available upon request. All bids must be received by September 15, 1980. For further information, contact David Hovet, Minnesota Department of Health, (612) 296-5224.

## Department of Health Community Services Division Maternal and Child Health Section

### Notice of Request for Proposals for the Operation of An Automated Uniform Food Delivery and Management Information System for the Women, Infants and Children (WIC) Program

The Minnesota Department of Health is interested in soliciting bids for the continuation of automated data processing services for the Special Supplemental Food Program for Women, Infants and Children. The current contract for services expires December 31, 1980. An RFP is available upon request. All bids must be received by October 8, 1980. For further information, contact Mr. Greg Smith, Minnesota Department of Health, at (612) 296-5233.

## Department of Corrections

### Notice of Availability of Contract for Provision of Management Services

Correctional Industries division of the Minnesota Department of Corrections requires management services assistance covering a wide range of expertise on a short notice basis.

As specific problems arise relating to engineering, marketing, production, new product development, staff training, etc., industry management wishes to contract with a company which in turn will provide the required services. Listed below is the range of needed services projected for approximately a 15-month period terminating December 31, 1981:

“Selected projects and studies requiring specialized services not currently available to the State of Minnesota and not warranting the acquisition of long term staff, such as:

Staff training; market research studies; short term staffing; engineering/technical services in the areas of drafting, product design, equipment recommendations, shop layouts, production time studies, etc.”

Approximate number of hours required for separate categories of responsibilities are as follows:

Staff training	60 hours
Market research	120 hours
Short term staff	160 hours
Engineering/technical serv.	<u>160 hours</u>
TOTAL	500 hours

The above projections are based on services provided in prior years. However, Department of Corrections reserves the right to alter the number of hours in each category depending on industry needs.

## STATE CONTRACTS

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### Reimbursement:

All administrative costs such as bookkeeping, etc. which are incurred by the management services company shall be reimbursed, with the upper limit of remuneration to the company set at \$16.88 per hour (as required under terms of the federal grant which funds this contract) per individual employee of the company. Estimated management services company time is approximately 133 hours for the contract period. Hourly compensation rates to subcontractors will be subject to negotiation.

It is expected that the management services company will actually make contacts, payments to subcontractors, do bookkeeping and submit invoices, and provide proof of services rendered at the end of each month to the Department.

Anticipated dollar limit of this proposed contract is \$15,000.

**AWARD OF CONTRACT IS CONTINGENT UPON RECEIPT OF GRANT FUNDING.**

Please send proposals to:

Thomas F. Grogan  
Director of Correctional Industries  
Minnesota Department of Corrections  
430 Metro Square, St. Paul, MN 55101  
Telephone: (612) 296-3529

Final submission date for responses to this Request for Proposals is September 29, 1980.

### **Notice of Availability of Contract for Industrial Engineering Services**

Correctional Industries Division of the Minnesota Department of Corrections requires trained and experienced industrial engineering services to assist industry programs at all industrial production sites within the adult correctional institutions.

Correctional Industries management wishes to contract with a company which in turn will provide the required industrial engineering services. Listed below is a projected range of responsibilities for such services for an approximately 15 month period terminating December 31, 1981:

“The industrial engineer will be responsible for the design and implementation of programs, procedures, and operating methods that optimize the use of labor, material, energy, and capital facilities of Minnesota Correctional Industries.

Responsibilities will include establishment of manufacturing plans on all production items; new product development; planning for evaluation of capital equipment acquisitions for manufacturing; assistance with implementation of production and inventory control systems; establishment of labor, material, and energy cost control reporting systems; establishment of material handling systems; related duties as assigned by industry management.”

### Reimbursement:

Hourly compensation rate will be based upon a 40 hour work week for a 15 month period. Travel and miscellaneous expenses will be paid.

Anticipated dollar limit of this proposed contract is \$50,000.

**AWARD OF CONTRACT IS CONTINGENT UPON RECEIPT OF GRANT FUNDING.**

Please send proposals to:

Thomas F. Grogan  
Director of Correctional Industries  
Minnesota Department of Corrections  
430 Metro Sq. Bldg., 7th & Robert St.  
St. Paul, MN 55101  
Phone: (612) 296-3529.

Final submission date for responses to request for proposals is September 29, 1980.

# OFFICIAL NOTICES

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

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

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## Water Resources Board

### Order for Hearing and Notice Thereof Regarding Change in Boundary Line

A hearing on a Petition for a Change in the Boundary Line Common to the Buffalo Creek Watershed District and the High Island Watershed District will be held on September 23, 1980, at the McLeod County Courthouse in Glencoe, Minnesota, beginning at 9:30 a.m. in the Assembly Room.

A complete Notice of Hearing will be published in the following newspapers on the following days in September of 1980: *Arlington Enterprise* on the 2nd and 9th; *Lake Lillian Crier* on the 3rd and 10th; *Hector Mirror* on the 3rd and 10th; *Glencoe Enterprise* on the 4th and 11th; and *Norwood Times* on the 4th and 11th. Copies of the complete Notice of Hearing are also available from the board's office at 555 Wabasha Street, St. Paul, Minnesota 55102 (612) 296-2840.

STATE OF MINNESOTA  
OFFICE OF THE STATE REGISTER

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Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

**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.

**Perspectives**—Publication about the Senate. Contact Senate Information Office.

**Weekly Wrap-Up**—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

**This Week**—weekly interim bulletin of the House. Contact House Information Office.



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