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STATE REGISTER

STATE OF MINNESOTA

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VOLUME 5, NUMBER 18

November 3, 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 | | | |
| 19 | Monday Oct 27 | Monday Nov 3 | Monday Nov 10 |
| 20 | Monday Nov 3 | Friday Nov 7 | Monday Nov 17 |
| 21 | Monday Nov 10 | Monday Nov 17 | Monday Nov 24 |
| 22 | Monday Nov 17 | Monday Nov 24 | Monday Dec 1 |

*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 and notices of intent to adopt rules without a public hearing 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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NOTICE

How to Follow State Agency Rulemaking Action in the *State Register*

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

The **PROPOSED RULES** section contains:

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

The **ADOPTED RULES** section contains:

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

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

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

| | |
|-------------------------------|-------------------------------|
| 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. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
 2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
 3. of the manner in which persons shall request a hearing on the proposed rules;
- and
4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

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 30 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Board of Animal Health

Proposed Amendments to Rules 3 MCAR § 2.044 The Establishment and Operation of Public Stockyards and LSB 66 Slaughter Cattle and Slaughter Swine Identification

Notice of Hearing

A public hearing concerning the proposed rule amendments will be held in Conference Room A, Capitol Square Building, 550 Cedar Street, Saint Paul, Minnesota, on Thursday December 4, 1980 commencing at 9:30 a.m. The proposed rule amendments may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed amendments, you are urged to participate in the rule hearing process.

Following the agency's presentation 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 statement or material may be submitted to Peter Erickson, Hearing Examiner, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, phone 612-296-8118 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. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.052 and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedures, call or write the hearing examiner.

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 Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule amendments. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Amendments to 3 MCAR § 2.044 The establishment and operation of public stockyards, will: 1. Provide that after January 1, 1982 any cattle in contact with a brucellosis reactor will be considered to have been exposed to the disease. 2. Delete the requirement that swine leave the stockyards within 72 hours. 3. Require that cows and bulls over two years of age be backtagged before being offered for sale. 4. Delete the exemption granted livestock for immediate slaughter for removal from the stockyards without a release from the veterinary services contractor. 5. Delete the exemption from a tuberculin test for cattle going to approved drylot feeding premises. 6. Require that cattle unloaded in the stockyards and not offered for sale be backtagged or properly tested before removal from the yards. 7. Require a pseudorabies test on swine from other states removed for breeding purpose. 8. Reduce the quarantine period on swine removed for breeding or feeding to 30 days rather than until sent to slaughter.

KEY: 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." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

Amendments to LSB 66 Slaughter cattle and slaughter swine identification. propose that only sows, boars and stags received by any agent or agency for slaughter be identified by a tattoo to the herd of origin. The present requirement that butcher swine consigned for slaughter be tattooed would be deleted from the rule.

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

The agency estimated that there will be no cost to local public bodies in the state to implement the amendments or rule for the two years immediately following its adoption, within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

Copies of the proposed rule amendments are now available and at least one free copy may be obtained by writing to Board of Animal Health, LL70 Metro Square Building, 7th and Robert Streets, Saint Paul, Minnesota 55101, telephone (612) 296-2942. Additional copies will be available at the hearing.

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

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

Amendments as Proposed

3 MCAR § 2.044 The establishment and operation of public stockyards.

A. Definitions.

1. "Board" shall mean the State of Minnesota Livestock Sanitary Board of Animal Health acting by and through the secretary and executive officer or its authorized agents.

2. "Public stockyards" means an assembly point for livestock operated as a public market for livestock producers, feeders, market agencies and buyers; having facilities and providing services for those individuals or organizations who have been granted the privileges of the market by the management of the stockyards.

3. "Shipper contract" shall mean a record indicating:

- a. Consignor's name and address.
- b. Identification and description of the livestock consigned.
- c. Date and time received.
- d. Name of the trucker or transportation agency.
- e. Name of the individual or firm who will represent the seller.
- f. Signature of the seller or his agent.

4. "Veterinary services contractor" shall mean an accredited veterinarian or more than one veterinarian selected by the management and approved by the board to perform necessary services in connection with the rules of the board.

B. Permit to operate.

1. A permit to operate expiring June 30 following the issue date shall be issued provided:

PROPOSED RULES

a. A veterinarian or veterinarians acceptable to the board has been retained by the stockyards management to act as the veterinary services contractor.

b. An inspection by representatives of the board indicates compliance with the sanitation and general requirements of this rule.

c. The management of the stockyards shall furnish a list of all persons and firms granted the privilege of the market.

2. Revocation of permit.

a. The secretary and executive office may suspend the permit for just cause for a period of not more than thirty (30) days pending a hearing before the board to show cause why the permit should not be revoked.

C. General requirements.

1. All pens, yards, alleys and livestock holding areas shall be constructed so that they may be maintained in good repair and in a sanitary condition.

2. The veterinary services contractor shall be provided adequate space and facility to perform his duties.

3. Separate isolation pens shall be provided for yarding reactors, suspects and exposed livestock.

4. Facilities shall be provided by the management for adequately cleaning and disinfecting trucks and other vehicles at a reasonable cost to the transportation agency.

5. Agents of the board shall be allowed entry for inspection purposes upon demand at any reasonable time.

6. The management shall maintain and cause to be maintained records of all livestock transactions for a period of one year. Such records shall be available for inspection on demand at reasonable times by agents of the board.

7. The management shall lock and seal pens or sections of the stockyard upon demand when agents of the board detect or suspect contagious or communicable disease exists in such pens and sections of the stockyards. Such pens shall be cleaned and disinfected under board supervision before being used again.

8. Upon disclosure of brucellosis reactors all cattle in the consignment shall be considered exposed and must be sold for immediate slaughter or returned to the farm of origin under quarantine. If sold for immediate slaughter a shipping permit shall be issued and each exposed animal shall be permanently ~~identified~~ branded with the letter "S" on the left jaw. Cattle that have been in contact with such a consignment 24 hours or more shall be considered exposed cattle and shall be handled in the same manner. Commencing January 1, 1982, any cattle in contact with a reactor shall be considered exposed.

9. All movements into and out of the public stockyards shall be in compliance with applicable federal interstate regulations and the laws of the State of Minnesota and rules of the board.

~~10. Swine leaving the stockyards for further feeding or breeding must leave within 72 hours of arrival in the stockyards.~~

D. Entry of livestock.

1. ~~2.~~ All livestock shall enter with a properly completed shipper contract.

2. ~~4.~~ Livestock under quarantine because of disease shall be allowed entry when properly identified and accompanied by a shipping permit issued by a veterinarian or notice of shipment prepared by the owner.

3. All reactors, suspects, and exposed livestock shall enter the stockyards through separate entryway and be yarded in the isolation area. The shipper contract shall be clearly marked with the appropriate word or words indicating such livestock.

4. Cows and bulls two years of age and over shall be identified to the herd of origin by an official backtag as required in rule LSB 66 Slaughter cattle and slaughter swine identification. prior to being offered for sale.

E. Removal of livestock.

1. No livestock ~~except livestock for immediate slaughter~~ shall be removed from the premises until released by the veterinary services contractor or his representative.

2. Cattle. ~~Cows and bulls two years of age and over for immediate slaughter shall be identified to the herd of origin by~~

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PROPOSED RULES

an official backtag, as required in rule LSB 66 and shall not be released by the veterinary services contractor or his representative unless all animals are identified by official backtag.

3. Swine sold for slaughter shall be identified to the herd of origin as required in LSB 66 and shall not be released by the veterinary services contractor or his representative unless identified.

a. 4. Cattle removed for purposes other than slaughter must be accompanied by a health certificate meeting Minnesota importation requirements if they originate from other states or Minnesota sale requirements if they originate from Minnesota or state of destination requirements if exported.

5. Swine removed for breeding or further feeding purposes must be accompanied by a health certificate indicating:

a. Eartag number.

b. Negative brucellosis buffered antigen test for sows and boars six months of age and over.

c. Any other requirements of a state of destination.

6. All swine for breeding and further feeding removed from public stockyards or points in Minnesota shall be quarantined until sent to slaughter.

7. Sheep, goats, horses, mules, and other species may be removed when a health certificate certifying compliance with the state of destination requirements have been met.

F. Tuberculosis test requirements for cattle.

b. (4) These All cattle shall be tested for tuberculosis except:

a. Cattle for immediate slaughter.

(1) b. Cattle originating in Minnesota.

(2) c. Cattle from states having tuberculosis a reciprocity agreement with Minnesota deleting test requirement.

(3) d. Female feeding and grazing cattle of beef type and breed under 18 months of age leaving the public stockyard on permit.

(4) e. Steers, spayed heifers, beef and cattle under 8 months of age, and dairy cattle 6 months of age.

f. Cattle leaving on permit to approved drylot feeding premises.

c. C. Brucellosis test requirements for these cattle and swine.

(2) 4. The test for and diagnosis of brucellosis responding cattle and swine which respond to the brucellosis test shall be in accordance with LSB 44 3 MCAR § 2.011.

(1) 2. The requirements for transfer of ownership for cattle, as embodied in LSB 44 3 MCAR § 2.011 Eradication of bovine and bison brucellosis, in Minnesota, shall apply to all cattle removed from the public stockyards to Minnesota destinations, except that:

a. Cattle of all classes may be sold to leave the public stockyards to enter a Minnesota approved drylot feeding premises provided:

(1) A permit is secured.

(2) The cattle are branded with the letter "F" on the right jaw.

(3) Individual identification for each animal is listed on the health certificate.

d. Anaplasmosis test requirements for breeding cattle.

1. Breeding cattle originating in states other than Minnesota shall be tested in accordance with 3 MCAR § 2.001.

e. Cows and bulls two years of age and over not offered for sale shall be backtagged or tested and found negative to brucellosis and if originating from other states negative to anaplasmosis and tuberculosis before removal from the stockyards.

3. Swine. The requirements for transfer of ownership for removal of breeding swine six months of age and over, except for immediate slaughter, shall be negative brucellosis test.

a. 3. Swine sold for slaughter shall be identified to the herd of origin as required in LSB 66 Slaughter cattle and slaughter swine identification.

b. Swine removed for breeding or further feeding purposes must be accompanied by a health certificate indicating:

(1) Eartag number.

(2) Negative brucellosis buffered antigen (BBA) test for sows and boars six months of age and over.

(3) Any other requirements of a state of destination.

c. Pseudorabies test requirements for breeding swine.

(1) Breeding swine six months of age and over originating in states other than Minnesota shall be tested for pseudorabies in accordance with 3 MCAR § 2.005 before removal to any Minnesota destination.

d. All swine for breeding and further feeding removed from public stockyards to points in Minnesota shall be quarantined for 30 days.

4. Sheep, goats, horses, mules and other species may be removed when a health certificate certifying compliance with the state of destination requirements have been met.

3 MCAR § 2.066 ~~LSB-66~~, Slaughter cattle and slaughter swine identification.

A. ~~(a)~~ Slaughter cattle identification.

1. ~~(1)~~ It shall be the duty of every livestock trucker, livestock dealer, livestock market operator, and slaughtering establishment subject to or maintaining meat inspection, to identify upon receipt unless previously identified by backtag, all bovine breeding animals two years of age and over originating from herds in this state and received for sale or shipment to a slaughtering establishment.

2. ~~(2)~~ Such identification unless otherwise authorized by the ~~Livestock Sanitary~~ Livestock Sanitary Board of Animal Health shall consist of an official backtag issued by the ~~Livestock Sanitary~~ Livestock Sanitary Board of Animal Health, or Veterinary Services, APHIS, USDA, and shall be affixed to such animals at a point approximately four (4) inches behind the shoulder and four (4) inches below the top line.

3. ~~(3)~~ Every person required to identify animals in accordance with this ~~rule~~ regulation shall file reports on forms prescribed by the board, including thereon the backtag number and date of application; the name, address and county of residence of the person who owned or controlled the herd from which such animals originated; and whether the animal was of beef or dairy type.

a. ~~(aa)~~ When ever animals are identified a report shall be filed with the board at the end of each fourteen day period covering all animals identified during such a period.

4. ~~(4)~~ This requirement shall not apply to livestock truckers with respect to animals ~~delivered~~ received for delivery directly to a livestock market agreeing to accept responsibility for backtag identification, if at the time of delivery the market is furnished with information identifying the herd of origin.

B. ~~(b)~~ Slaughter swine identification.

1. ~~(1)~~ It shall be the legal obligation of each agent transporting sows, boars and stags ~~slaughter swine~~ from a producer to a livestock dealer, livestock market, stockyards, commission company, other concentration point or slaughter establishment subject to or maintaining meat inspection to supply the receiving agent or agency with the name and address of the producer so the sows, boars and stags ~~swine~~ can be identified to the herd of origin.

2. ~~(2)~~ It shall be the legal obligation of the agent or agency—livestock dealer, livestock market operator, stockyard operator, commission company, buying station, operator of any concentration point at which the herd of origin of individual sows, boars and stags ~~swine~~ would be lost or slaughtering establishment subject to or maintaining meat inspection—receiving sows, boars and stags ~~slaughter swine~~ from a transporting agent to identify the sows, boars and stags ~~slaughter swine~~, unless so previously identified, with a tattoo or other identification authorized by the board. Failure of the first agent or agency receiving the sows, boars and stags ~~slaughter swine~~ to properly identify the sows, boars and stags ~~slaughter swine~~ does not relieve other agents and agencies receiving the sows, boars and stags ~~slaughter swine~~ from the responsibilities of identification of the sows, boars and stags ~~slaughter swine~~ to the herd of origin.

a. ~~(aa)~~ Tattoos or other identification shall be applied as directed by the board, using a code approved by the board which will identify the herd of origin of the sows, boars and stags ~~slaughter swine~~.

KEY: 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." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.

PROPOSED RULES

b. ~~(bb)~~ Every agent or agency identifying sows, boars and stags ~~slaughter swine~~ shall maintain a record of the identification used, date of application, name and address of the producer of all sows, boars and stags ~~swine~~ identified for at least 120 days. These records shall be made available to the board at any time.

C. ~~(c)~~ Each agent or agency failing to comply with the provisions of this regulation is in violation of the rule regulation and the penalties invoked as provided in Minn. Stat. ch. 35, § 35.70 (1978).

Department of Employee Relations

Proposed Amendment of Rules Regarding Depositing of Social Security Contributions by Covered Public Employers

Notice of Intent to Adopt Rules without A Public Hearing

Notice is hereby given that the State Department of Employee Relations proposes to adopt the above entitled rules without a public hearing. The commissioner has determined that the proposed adoption of these rules is noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 15.0412, subdivision 4g (1980) for adoption of noncontroversial rules.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 15.0412, subdivisions 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Patrick Halvorsen
Room 307, Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
Telephone No. 296-4349

Authority for the adoption of these rules is contained in Minnesota Statutes, section 355.05. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Patrick Halvorsen upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Patrick Halvorsen.

The rules proposed for adoption relate to the following matter:

The time schedule for local governmental units to remit their social security contributions each month to the state agency is being changed due to recently enacted federal legislation. Under the proposed rules, the social security contributions must be submitted within the 15 day period following the end of each month. Under the existing rules, the contributions are submitted within five working days after the end of the first and second months of each quarterly period and within 20 days following the third month of each quarter.

Copies of this notice and the proposed rules are available and may be obtained by contacting Patrick Halvorsen.

Barbara L. Sundquist
Commissioner of Employee Relations

Amendments as Proposed

2 MCAR § 2.198 E. Employee's contribution. The employee's contribution is measured by the amount of wages actually received on or after the effective date of the agreement or modification entered into between the state and the Secretary of Health, Education and Welfare (hereinafter referred to as "State Agreement") with respect to services performed in

employment by the employee in a coverage group included in such agreement or modification. After the maximum reportable wages as provided in Title II of the Federal Social Security Act have been paid an employee during a calendar year, additional wages paid that employee during the remainder of the calendar year are not subject to deductions for social security taxes and no further wage contributions are required.

1. The social security tax rates to be applied against the wages of employees within the coverage group and which are to be matched with an equal amount by the payroll record unit of the State or political subdivision (hereinafter referred to as the "reporting unit") are the contribution rates established by Title II of the Federal Social Security Act.

2. Taxes shall be computed on the basis of the rate effective at the time the wages are actually or constructively received or paid.

However, wages received by an employee subsequent to the effective date of coverage for services rendered in a period prior to the effective date of coverage cannot be regarded as "wages received for employment" and such amounts are not subject to tax. Therefore, where the State Agreement makes social security coverage effective January 1 of a calendar year, wages received by an employee in such calendar year for services rendered in the previous calendar year cannot be regarded as "wages received for employment" and such amounts are not subject to tax.

3. Where an employee performs services during a calendar year for the state and one or more political subdivisions or for two or more political subdivisions, the wages paid in any calendar year to such employee by the state and each such political subdivision not in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act shall be reported by the state and each political subdivision, with the following exception: Where the State of Minnesota pays the matching employer social security contributions tax, such as for teachers in Minnesota public schools, then only the maximum reportable wages as provided in Title II of the Federal Social Security Act paid to such individual in the aggregate are subject to the social security tax and reported as wages.

4. The reporting unit shall be responsible for and shall collect from each employee the amount of tax determined to be due by deducting said amount from employee's wages when actually or constructively paid. The reporting unit shall collect the tax notwithstanding the fact that the wages are paid in any medium other than cash. After the matching amount has been provided by the reporting unit, the total social security contribution shall be remitted to the state agency for credit to the Social Security Contributions Fund in accordance with the following schedule:

a. ~~Except as provided in paragraph e-,~~ For each month, the social security contributions due on the wages paid ~~during the first and second months of each quarterly period~~ shall be forwarded to the state agency within ~~five working~~ the fifteen days ~~after period following the end of each month beginning with the month of July 1980. Where the last day of the 15-day period is a legal holiday or a nonwork day, the social security contribution payment is due on the next preceding work day.~~

b. ~~Except as provided in paragraph e-,~~ the social security contributions due on the wages paid during the third month of each quarterly period shall be forwarded to the state agency within 20 days after the end of such month along with the quarterly report.

b. e- Where the state assumes the responsibility for the matching employer social security contribution pursuant to Minn. Stat. § 355.46, subd. 3(b), the payments under a. ~~and b-~~ above shall be equal to the required employee contribution withheld only.

c. ~~d-~~ In lieu of remitting at times indicated above, the reporting unit may remit the required social security contribution payment at the end of each payroll period or after each salary payment made to the employees, but in no event shall the contribution payment be made later than the time periods specified in paragraphs a. ~~and b-~~ of this section.

d. e- With each contribution payment, the reporting unit must submit a completed approved Remittance Form prescribed by the state agency.

e. f- If any monthly contribution payment is not received by the state agency within the deadlines specified in paragraphs a. ~~and b-~~ above, interest will be charged to the reporting unit at the rate of six percent per annum on the contributions due for each month or part of a month from the due date, but in no case shall such interest charge or penalty be less than five dollars (\$5.00).

5. The reporting unit is liable to the state agency for the employee's share of the tax whether or not such share has been

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withheld from the employee's wages. Notwithstanding the foregoing, the employee remains liable for the employee's share of the tax on all wages received by the employee not in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act per calendar year.

6. If any reporting unit fails to make the social security contribution payments required by law and these rules, the delinquent payments due with interest thereon at the rate of six percent per annum or the minimum penalty as established by these rules, whichever is greater, may be recovered in an action by the state agency in a court of competent jurisdiction against each and every political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such political subdivision by any department or agency of the state.

7. The state or a political subdivision is not authorized to begin making deductions for social security taxes from the earnings of employees until after the State Agreement has been approved on behalf of the federal government by the Secretary of Health, Education and Welfare. However, as soon as the State Agreement has been fully executed and has been approved, the political subdivision shall make the necessary deductions from earnings, retroactive to effective date of said agreement or modification thereof, so that the total contribution payments required from the effective date of the State Agreement are transmitted to the state agency along with initial reports before the initial deadline as determined by the state agency. The exact method and time of deducting retroactive contributions from employees are matters to be determined by each political subdivision individually.

8. The responsibility of each reporting unit to make the required deductions from earnings of all covered employees shall not be affected by the fact that some employees may, while employed, be receiving social security benefits.

Energy Agency Conservation Division

Proposed Rules for the Establishment of the Minnesota Energy Conservation Service Program

Notice is hereby given that the public hearing in the above-entitled matter will be held in the Large Hearing Room, 83 State Office Building, 435 Park Street, St. Paul, Minnesota on December 16, 1980, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written material may be submitted at the hearing. In addition, written material may be submitted and recorded in the hearing record by mailing the material to the Hearing Examiner Allan Klein, Hearing Examiners Office, 1745 University Ave., Room 300, St. Paul, Minnesota 55104—telephone (612) 296-8104, either before the hearing or within five working days after the close of the hearing unless the hearing examiner orders a longer period of time not to exceed 20 calendar days. The proposed rules are subject to change as a result of the rules hearing process. The agency therefore strongly urges those who may be affected in any matter by the substance of the proposed rules applicable to this hearing to participate in the rules hearing process.

If adopted, the proposed rules would establish a program requiring major regulated utilities to offer their residential utility customers services related to the promotion of energy conservation. The most important of these services include: conducting home energy audits to determine areas of major heat loss and other energy inefficiencies in the home; distributing Master lists of approved contractors, suppliers and lenders from whom home energy improvements and financing services may be obtained; arranging for the installation of home energy improvements; and arranging for the financing or supply of home energy improvements. The rules establish requirements for inclusion in the Master lists, audit training and certification procedures. This program also includes provisions for voluntary participation of home heating suppliers and nonregulated utilities.

The agency's authority to promulgate the proposed rules is contained in 1980 Minn. Laws, ch. 579, § 12 (to be codified as Minn. Stat. § 116H.17), as well as §§ 116H.08(a)(1978), 116H.07(i)(1978).

Copies of the proposed rules are now available and one free copy may be obtained by writing to the Minnesota Energy Agency, Attention: Alan Lessik, 980 American Center Building, 150 E. Kellogg Boulevard, St. Paul, Minnesota 55101—(612) 297-2117. Copies will also be available at the door on the date of the hearing.

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.

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

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

The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.417, § 15.052 and by 9 MCAR §§ 2.101-2.113. Any questions concerning the procedures may be directed to the hearing examiner.

October 20, 1980

Mark Mason, Director

Rules as Proposed (all new material)

6 MCAR § 2.2300 Authority and purpose.

A. Authority. The agency's authority to promulgate the proposed rules is contained in 1980 Minn. Laws, ch. 579, § 12 (to be codified as Minn. Stat. § 116H.17), as well as §§ 116.08(a)(1978), 116H.07(i)(1978).

B. Purpose. The purpose of these rules is to establish a program requiring major regulated utilities to offer their residential utility customers services related to the promotion of energy conservation. The most important of these services include: conducting home energy audits to determine areas of major heat loss and other energy inefficiencies in the home; distributing lists of approved contractors, suppliers and lenders from whom home energy improvements and financing services may be obtained; arranging for the installation of home energy improvements; and arranging for the financing of supply of home energy improvements. The rules establish requirements for inclusion in the lists, audit training and certification procedures, procedures for the billing of energy improvement loans on customer utility bills, and post-installation inspection and consumer grievance procedures. This program also includes provisions for voluntary participation of home heating suppliers and nonregulated utilities.

6 MCAR § 2.2301 Definitions.

For purposes of these rules, the following definitions apply:

A. Agency: The Minnesota Energy Agency.

B. Arranged installation. Any installation of MECS Program Measures, coordinated pursuant to 6 MCAR § 2.2304 by a participating utility or heating supplier, which is initiated using a standardized MECS Bid Form.

C. City of the first class: A city, pursuant to Minn. Stat. § 410.01(1978), which has a population of 100,000 inhabitants or more.

D. Covered utility. Covered utilities shall be determined on a yearly basis. The definition includes all public utilities which during the second preceding calendar year had either:

1. Sales of natural gas for purposes other than resale which exceed 10 billion cubic feet; or
2. Sales of electric energy for purposes other than resale which exceed 750 million kilowatt-hours.

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E. Customer. For the purposes of this rule, a customer is any person who:

1. Owns or occupies a residential building; and
2. Receives a fuel bill from a participating utility or home heating supplier for fuel used in such residential building.

F. DOE: Department of Energy.

G. Energy conservation measures. Energy Conservation Measures means any of the following measures in a residential building:

1. Caulking. Pliable materials used to reduce the passage of air and moisture by filling small gaps located at fixed joints on a building, underneath baseboards inside a building, in exterior walls at electric outlets, around pipes and wires entering a building, and around dryer vents and exhaust fans in exterior walls. Caulking includes, but is not limited to, materials commonly known as "sealants," "putty," and "glazing compounds."

2. Weatherstripping. Narrow strips of material placed over or in movable joints of windows and doors to reduce the passage of air and moisture.

3. Furnace efficiency modifications.

a. Replacement furnace or boiler. A furnace or boiler, including a heat pump, which replaces an existing furnace or boiler of the same fuel type and which reduces the amount of fuel consumed due to an increase in combustion efficiency, improved heat generation or reduced heat losses.

b. Furnace replacement burner (oil). A device which atomizes the fuel oil, mixes it with air, and ignites the fuel-air mixture, and is an integral part of an oil-fired furnace or boiler including the combustion chamber, and uses less oil than the device it replaces.

c. Flue opening modification. An automatically operated damper installed in a gas-fired furnace (often called a vent damper) which:

(1) Is installed downstream from the drafthood; and

(2) Conserves energy by substantially reducing the flow of heated air through the chimney when the furnace is not in operation.

d. Electrical or mechanical ignition system. A device which, when installed in a gas-fired furnace or boiler, automatically ignites the gas burner and replaces a gas pilot light.

4. Replacement central air conditioner. A central air conditioner which replaces an existing central air conditioner of the same fuel type and which reduces the amount of fuel consumed due to an increase in efficiency.

5. Ceiling insulation. A material primarily designed to resist heat flow which is installed between the conditioned area of a building and an unconditioned attic. Where the conditioned area of a building extends to the roofs, the term "ceiling insulation" also applies to such material used between the underside and upperside of the roof.

6. Wall insulation. A material primarily designed to resist heat flow which is installed within or on the walls between conditioned areas of a building and unconditioned areas of a building or the outside.

7. Floor insulation. A material primarily designed to resist heat flow which is installed between the first level conditioned area of a building and an unconditioned basement, a crawl space, or the ground beneath it. Where the first level conditioned area of a building is on a ground level concrete slab, the term "floor insulation" also means such material installed around the perimeter of or on the slab. In the case of mobile homes, the term "floor insulation" also means skirting to enclose the space between the building and the ground.

8. Duct insulation. A material primarily designed to resist heat flow which is installed on a heating or cooling duct in an unconditioned area of a building.

9. Pipe insulation. A material primarily designed to resist heat flow which is installed on a heating, cooling, or hot water pipe in an unconditioned area of a building.

10. Water heater insulation. A material primarily designed to resist heat flow which is suitable for wrapping around the exterior surface of the water heater casing.

11. Storm or thermal window:

a. A window or glazing material placed outside or inside an ordinary or prime window, creating an air space, to provide greater resistance to heat flow than the prime window alone; or

b. A window unit with improved thermal performance through the use of two or more sheets of glazing material affixed to a window frame to create one or more insulated air spaces. It may also have an insulating frame and sash.

12. Storm or thermal door:

- a. A second door, installed outside or inside a prime door, creating an insulating air space; or
- b. A door with enhanced resistance to heat flow through the glass area created by affixing two or more sheets or glazing materials; or
- c. A primary exterior door with a R-value of at least two.

13. Heat reflective and heat absorbing window or door material. A window or door glazing material with exceptional heat-absorbing or heat-reflecting properties; or reflective or absorptive films and coatings applied to an existing window or door which thereby result in exceptional heat-absorbing or heat-reflecting properties.

14. Devices associated with electric load management techniques. Customer-owned or leased devices that reduce the maximum kilowatt demand on an electric utility and which are any of the following:

- a. Part of a radio, ripple or other utility controlled load switching system located on the customer's premises;
- b. Clock-controlled load switching devices;
- c. Interlocks, and other load-actuated, load-limiting devices; or
- d. Energy storage devices with control systems.

15. Clock thermostat. A device which is designed to reduce energy consumption by regulating the demand on the heating or cooling system in which it is installed, and uses:

- a. A temperature control device for interior spaces incorporating more than one temperature control level, and
- b. A clock or other automatic mechanism for switching from one control level to another.

H. Energy conserving practices. Energy Conserving Practices means any of the following measures in a residential building:

1. Furnace efficiency maintenance and adjustments, which means cleaning and combustion efficiency adjustment of gas or oil furnaces, periodic cleaning or replacement of air filters on forced-air heating or cooling systems, lowering the bonnet or plenum thermostats to 80°F on a gas or oil forced-air furnace, and turning off the pilot light on a gas furnace during the summer.

2. Nighttime temperature setback, which means manually lowering the thermostat control setting for the furnace during the heating season to a maximum of 55°F during sleeping hours.

3. Reducing thermostat settings in winter, which means limiting the maximum thermostat control setting for the furnace to 68°F during the heating season.

4. Raising thermostat setting in summer, which means setting the thermostat control for an air conditioner to 78°F or higher during the cooling season.

5. Water flow reduction in showers and faucets, which means placing a device in a shower head or faucet to limit the maximum flow to three gallons per minute, or replacing existing shower heads or faucets with those having built-in provisions for limiting the maximum flow to three gallons per minute.

6. Reducing hot water temperatures, which means manually setting back the water heater thermostat setting to 120°F; and reducing the use of heated water for clothes washing.

7. Reducing energy use when a home is unoccupied, which means reducing the thermostat setting to 55° F when a home is empty for four hours or longer in the heating season, turning an air conditioner off in the cooling season when no one is home, and lowering the thermostat setting of the water heater when a home is vacant for two days or longer.

8. Plugging leaks in attics, basements, and fireplaces, which means installing scrap insulation or other pliable materials in gaps around pipes, ducts, fans, or other items which enter the attic or basement from a heated space, installing fireproof material to plug any holes around any damper in a fireplace, and adding insulation to an attic or basement door.

9. Sealing leaks in pipes and ducts, which means installing caulking in any leak in a heating or cooling duct, tightening or plugging any leaking joints in hot water or steam pipes, and replacement of washers in leaking water valves.

10. Efficient use of shading, which means using shades or drapes to block sunlight from entering a building in the cooling season, to allow sunlight to enter during the heating season, and to cover windows tightly at night during the heating season.

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I. Heating supplier. A person who sells or supplies home heating fuel (including and not limited to, No. 2 heating oil, kerosene, butane, and propane) to a customer for consumption in a residential building and who has elected to participate in MECS, pursuant to 6 MCAR § 2.2312.

J. Installation standards. DOE Installation Standards pursuant to 10 CFR § 456 subparts G and I (1979).

K. Material standards. DOE Material Standards pursuant to 10 CFR § 456 subparts G and H (1979)

L. Measures warranty. A warranty in writing, by the manufacturer of the program measure, that the residential customer for whom the measure is installed, the contractor who installs the measure, and the supplier of the measure shall at a minimum be entitled to obtain, at no charge, appropriate replacement parts and materials for those measures found within one year from the date of installation or purchase to be defective due to materials, manufacture or design. The warranty shall also provide that the defect shall be corrected within two weeks after it is reported to the manufacturer.

M. MECS. Minnesota Energy Conservation Service.

N. New customer. A person who first becomes a customer after initial distribution of the Program Announcement but before January 1, 1985.

O. Non-regulated utility. A public utility whose rates are not within the jurisdiction of the Minnesota Public Utilities Commission's ratemaking authority.

P. OCS: Minnesota Office of Consumer Services.

Q. Participating utility. A covered utility or a non-regulated utility which voluntarily participates in the Minnesota Energy Conservation Service.

R. Program announcement. The MECS program information bulletin and utility offer of service to each customer.

S. Program measures. All energy conservation measures, renewable resource measures and state measures to be included in an MECS audit.

T. Regulated utility. A public utility whose rates are within the jurisdiction of the Minnesota Public Utilities Commission's ratemaking authority.

U. Renewable resource measures. Renewable resource measures means the following measures installed in or connected to a residential building:

1. Solar domestic hot water systems (DHW). Equipment designed to absorb the sun's energy and to use this energy to heat water for use in a residential building other than for space heating, including thermosiphon hot water heaters.

2. Passive polar space heating and cooling systems. Systems that make efficient use of, or enhance the use of, natural forces—including solar insolation, winds, night time coolness and opportunity to lose heat by radiation to the night sky—to heat or cool living space by the use of conductive, convective or radiant energy transfer. Passive solar systems include only:

a. Direct gain glazing systems. The use of south-facing (+ or -45° of True South) panels of insulated glass, fiberglass, or other similar transparent substances that admit the sun's rays into the living space where the heat is retained. Glazing is either double-paned, or single-paned equipped with movable insulation.

b. Indirect gain systems. The use of panels of insulated glass, fiberglass or other transparent substances that direct the sun's rays onto specially constructed thermal walls, ceilings, rockbeds, or containers of water or other fluids where heat is stored and radiated.

c. Solaria/sunspace systems. A structure of glass, fiberglass or similar transparent material which is attached to the South-facing (+ or -45° of True South) wall of a structure which allows for air circulation to bring heat into the residence, and which is able to be closed off from the residential structure during periods of low solar insolation.

d. Window heat gain retardants. Those mechanisms which significantly reduce summer heat gain through South-facing (+ or -45° of True South) windows by use of devices such as awnings, insulated rollup shades (external or internal), metal or plastic solar screens, or moveable rigid insulation.

3. Wind energy devices. Equipment that uses wind energy to produce energy in any form for personal residential purposes.

4. Replacement solar swimming pool heaters. Devices which are used solely for the purposes of using the sun's energy to heat swimming pool water and which replace a swimming pool heater using electricity, gas or another fossil fuel.

V. Residential building. Any structure used for residential occupancy including any building containing at least one, but not more than four, dwelling units, and: has a system for either heating or cooling living spaces. However, this definition does not

include: new buildings to which final standards under Sections 304(a) and 305 of the Energy Conservation and Production Act (42 U.S.C. 6801 et seq) apply.

W. State measures. State measures are the following measures in or with respect to a residential building:

1. Insulated window and glass coverings. A device with a minimum R-value of 2 which is designed to reduce heat losses through windows and doors.
2. Vent damper for waterheaters. A mechanical or thermally operated damper installed in a gas fired waterheater which:
 - a. Is installed when a vent damper is installed in a furnace and the two appliances share a common chimney.
 - b. Conserves energy by substantially reducing the flow of heated air through the chimney when the waterheater is not in operation.
3. Positive fireplace shutoffs. A manual shutoff device which can be utilized to produce a seal to inhibit the flow of air when a fireplace or fireplace stove is operating.

6 MCAR § 2.2302 Program promotion.

A. Program announcements.

1. Distribution.

- a. Each covered utility shall send to all their customers a Program Announcement by April 9, 1981, and thereafter at least once every two years until January 1, 1985.
- b. Each covered utility shall send a Program Announcement to each of its new customers within sixty (60) days after the date that the new customer first receives service.
- c. Program Announcements shall be submitted to the agency for approval one month prior to the date that the utility intends to print the announcement. The agency shall approve the distribution of program announcements only if:
 - (1) The criteria of 6 MCAR § 2.2302 A.2. have been met; and
 - (2) The information contained in the program announcement represented in simple language.

2. Content.

- a. The Program Announcement shall contain the following elements, at a minimum:
 - (1) A list of all program measures with an estimate of the savings in energy costs, expressed in percentages, which are likely to be produced by each measure in one year;
 - (2) A list of all energy conserving practices with an estimate of the savings in energy costs, expressed in percentages, which are likely to be produced by each practice in one year, and a statement that the practices are of low or no cost;
 - (3) An offer by the covered utility to provide the following services with a description of each:
 - (a) A program audit, in accordance with 6 MCAR § 2.2303.
 - (b) Installation arrangement services, in accordance with 6 MCAR § 2.2304 B.
 - (c) Financing arrangement services, in accordance with 6 MCAR § 2.2304 A.
 - (d) Contractor, lender and supplier lists in accordance with 6 MCAR § 2.2305.

The description of each service shall include information on how a customer may obtain these services, and the direct cost to the customer of obtaining these services;

(4) An offer to provide to each new customer upon request a copy of any program audit performed previously on the customer's present residence;

(5) The following disclosure: "Energy savings depend on many factors. The estimates contained in the announcement are based on estimates for typical houses. Your costs and savings will be different if your house is a different size or if your energy using habits are different from those we assumed. The energy audit which we offer will provide more specific estimates for your house.";

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(6) An explanation of the benefits of applicable federal and state energy tax credits;

(7) A description of the benefits and eligibility requirements of the Weatherization Assistance Program for Low Income Persons, 10 C.F.R. 440; (1980);

(8) The following statement: "The results of this audit may be used by renters to see if their residence complies with existing state energy standards for rental property. Call the Minnesota Energy Agency at 296-5175 or toll-free, 800-652-9747 for more information and what you can do to get your residence brought up to these standards."

b. The Program Announcement shall not contain:

(1) Advertising for sale, installation, or financing of any program measure or energy conserving practice by a particular person or company, listed or not; or

(2) Information regarding any product which is not a program measure or an energy conserving practice.

c. If a covered utility or participating heating supplier finances the sale or installation of program measures and energy conserving practices, it may describe its financial services.

d. The covered utility or participating heating supplier shall use the calculation procedures in Appendix A for the estimates contained in the Program Announcement. All estimates shall be based upon recent prices and appropriate climatological data for the customer's location. The price data will be taken from the survey conducted pursuant to 6 MCAR § 2.2303 A.2.

6 MCAR § 2.2303 Energy audits.

A. Validation of audit procedures.

1. Alternative audits. The agency shall develop a model program audit based on the calculation procedures in Appendix A for use by participating utilities and heating suppliers in the MECS. A participating utility or heating supplier may use an alternative audit if the alternative has been approved by the agency. The alternative audit will be approved if its results are within $\pm 20\%$ of the results provided by the MECS Audit. To determine this, the agency shall conduct five field tests of the alternative audit on five representative residences of different sizes and ages. The results of these audits shall be reviewed by the agency and compared to the results achieved by the MECS Audit. If the alternative audit does not meet this test, any necessary changes may be made in the audits procedures and five additional audits may be conducted and reviewed. All alternative audits shall be submitted to the agency for validation by January 5, 1981.

2. Price information. On a semi-annual basis each covered utility shall survey local fuel prices and prices for materials and installation of program measures for use in audit calculations on a form provided by the agency. The results shall be sent to the agency for verification on the 15 day of January and July, starting on January 15, 1981.

B. Scheduling of program audits.

1. Upon prior approval by the agency, a program audit may be offered in the program announcement by a participating utility or heating supplier on a geographic or other conditional, non-discriminating basis. Approval will be granted if the audit offer schedule allows every customer within the respective utility or heating supplier's service area an equal opportunity to receive a program audit, and if the audit offer schedule is consistent with 6 MCAR § 2.2303. However, any covered utility which serves a city of the first class and offers audits on a geographic basis in that city must first offer the audits to customers in those neighborhoods that contain the largest number of people below the federal poverty guideline. If two or more covered utilities provide service to the same city of the first class, upon approval by the agency those utilities may enter into an agreement which provides that only one utility will offer the audits on the above priority basis. This agreement will not relieve either utility from responsibilities of offering audits to all eligible customers.

2. Each covered utility shall provide a program audit to a customer:

a. Within thirty (30) days of the customer's request if a conditional offer is made; or

b. Within sixty (60) days of the customer's request if an unconditional offer is made.

3. Each participating utility and heating supplier shall submit to the agency, 45 days prior to the first offer of a program audit, a schedule which states when program audits will be offered and completed throughout the state.

4. Participating utilities and heating suppliers are prohibited from preconditioning a program audit upon the purchase or performance of any other audit.

C. Conducting the audit.

1. Each participating utility and heating supplier shall upon request, provide to each customer a program audit which covers all energy conserving practices and all program measures. In each program audit, a state certified auditor shall determine

which of the energy conserving practices would save energy in the residence, explain and emphasize the importance of such practices and recommend that they be performed before the installation of any program measure. The auditor shall then determine the applicability of each program measure pursuant to 6 MCAR § 2.2303 D.2 in that residence.

2. The auditor shall estimate energy savings and installation costs of each program measure using the calculation procedures in Appendix A or procedures approved pursuant to 6 MCAR § 2.2303 A. Furthermore, the auditor shall perform each of the following:

a. Take actual measurements or inspections of the building shell and of the space heating, space cooling, and water heating equipment;

b. Base economic calculations on the survey conducted pursuant to 6 MCAR § 2.2303 A.2, for local fuel prices, and local prices for materials and installation of program measures, and also, included in the calculations typical local climate data for the customer's location;

c. Base calculation procedures for active solar domestic hot water systems on those contained in the HUD Intermediate Minimum Property Standards Supplement, Solar Heating and Domestic Hot Water Systems 4930.2, 1977 Edition; and

d. Base any cost and savings estimate for any applicable furnace efficiency modification to a gas or oil furnace or boiler on an evaluation of the seasonal efficiency of such furnace or boiler. This seasonal efficiency shall be calculated on an estimated peak (tuned-up) steady state efficiency corrected for cycling losses. This shall be done as follows:

(1) For oil furnaces or boilers, the steady state efficiency shall be derived by a flue gas analysis of measured flue gas temperature and carbon dioxide content.

(2) For gas furnaces or boilers, the steady state efficiency shall be derived from manufacturer's design data. If the manufacturer's design data does not exist, then a flue gas analysis, as described in 6 MCAR § 2.2303 C.2.d. shall be done.

3. The auditor shall calculate the energy index for the residence using the procedures in Appendix A.

4. Each customer shall be required to sign a release form prior to an audit of a furnace which uses as its primary source of energy any fuel other than the fuel source sold by the participating utility or heating supplier which employs the auditor. The release shall include the following statement: "Since your home is heated by a source of fuel other than (identify the type of fuel supplier), you must sign this release form to allow us to audit your furnace. It will allow us to give you estimates of energy savings that may be available from making your heating appliances more efficient."

D. Technical criteria for calculating energy savings.

1. The following R-Values shall be recommended during the program audit and be used during the calculation procedure:

- a. Ceiling insulation R-44
- b. (1) Wall insulation R-11
- (2) Foundation insulation R-11
- c. (1) Floor insulation R-19
- (2) Rim joist insulation R-19

2. The following criteria shall be used to determine if an estimate of cost and savings must be given for the particular program measure:

| Measure | Criteria |
|--|--|
| a. Replacement furnaces or boilers | — The furnace is five (5) years or older and has a seasonal efficiency of less than 80%. |
| b. Flue opening modifications | — The furnace combustion air is taken from a conditioned space. |
| c. Replacement central air conditioner | — The building has a central air conditioner that is five (5) years or older. |

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- d. Ceiling insulation
 - The present level of ceiling insulation is R-30 or less.
 - e. Wall insulation
 - There is no insulation in a substantial portion of the exterior walls and the building is not a mobile home.
 - f. Floor insulation
 - (1) Floor
 - There is no insulation in the floor over an unconditioned space.
 - (2) Rim joist insulation
 - The rim joist is accessible.
 - g. Water heater insulation
 - The remaining useful life of the heater appears to be three years or greater and space is available around the water heater to install insulation.
 - h. Electric load management devices
 - The electric utility offers a residential rate which reflects any differences in the utility's cost of service between peak and off peak periods.
 - i. Clock thermostat
 - The residence has a thermostat or the existing furnace or central air conditioner is compatible with a clock thermostat.
 - j. Solar domestic hot water system
 - A site exists on or near the residence, which is free of major obstruction to solar radiation.
 - k. Passive solar direct or indirect gain glazing systems
 - The living space of the residence has either a South facing (+ or -45° of True South) wall or an integral South facing (+ or -45° of True South) roof, which is free of major obstruction to solar radiation.
 - l. Heat reflecting and heat absorbing window or door material
 - The affected rooms of the residence are air conditioned and the cooling degree days for the region exceed 700.
 - m. Passive solar solarium/sunspace systems
 - The living space of the residence has a South-facing ground level wall, which is free of major obstruction to solar radiation.
 - n. Passive solar window heat gain retardants
 - The living space of the residence has South-facing (+ or -45° of True South) window that is not shaded from summer sunshine.
 - o. Wind energy systems
 - The site has an estimated wind speed of greater than 10 mph and there is sufficient unrestricted access to the wind.
3. Every program audit addressing solar domestic hot water system shall include the following information:
- a. The square feet of the solar collector;
 - b. The solar collector characteristics, including glazing materials and other solar collector materials;
 - c. Any storage system needed, including the capacity of storage;
 - d. Any freeze protection needed;
 - e. The estimated percent of the water heating load to be met by solar energy;
 - f. Any physical connections needed with existing heating systems;
 - g. Any site preparation needed; and
 - h. If the results are based on a simulation, the following disclosure or its equivalent: "The energy cost savings estimates you receive are based on systems which may be different from the ones you purchase. Also, these estimates were not determined using actual conditions but by using simulated measurements. Therefore, the cost savings we have estimated may be different from the savings which actually occur."
4. Every program audit addressing passive solar space heating systems shall include the following information:
- a. A general description and an illustration of the system;
 - b. The estimated percent of the maximum heating requirements of the residence that could be met by the system;

- c. The approximate dimensions of the system;
 - d. The method employed by the system to store heat, including the heat capacity for heat storage; and
 - e. The disclosure provided in 6 MCAR § 2.2303 D.3.h.
5. Every program audit addressing wind energy device shall include the following information:
- a. Installation cost estimates, based on the installation costs of a commercially available device with kilowatt ratings appropriate to the level of electricity consumed in the customer's residence;
 - b. The auditor's estimate of the average windspeed at the residence based on data available at the nearest wind measurement station;
 - c. The specifications of the device under consideration; and
 - d. Estimates of energy cost savings, based on average yearly wind speeds and the specification of the selected wind device.
- E. Presentation of audit results.
1. Upon completion of the program audit the auditor shall provide all the following information on-site, in person, in writing to each customer:
- a. An estimate of the total cost (materials and labor) of installation by a contractor expressed in a range of dollars, with a twenty (20) percent maximum range, of each applicable program measure addressed in the program audit;
 - b. An estimate of the total cost of installation by the customer expressed in a range of dollars, with a twenty (20) percent maximum range, of each applicable program measure, addressed in the program audit. However, the auditor shall not provide an estimate to a customer of the cost of installation by the customer of replacement central air conditioners, wall insulation, furnace efficiency modifications, devices associated with load management techniques, or wind energy devices;
 - c. An estimate of the savings in energy costs expressed in a range of dollars, with a twenty (20) percent maximum range, which occur during the first year from installation of each applicable program measure addressed by the program audit.
 - d. An estimate of the payback period, measured in years, for the cost of installation of each program measure addressed by the audit.
 - e. A clear disclosure to the customer, through the use of sample calculations, that the total energy cost savings from the installation of more than one program measure may be less than the sum of energy cost savings of each of the measures installed individually;
 - f. The following disclosure: "The procedures used to make these estimates are consistent with the Minnesota Energy Agency criteria for residential energy audits. However, the actual installation costs you incur and energy savings you realize from installing these measures may be different from the estimates contained in this audit report. Although the estimates are based on measurements of your house, they are also based on assumptions which may not be totally correct for your household.";
 - g. An estimate of the annual normal maintenance costs, if any, of each applicable program measure; and
 - h. Sample calculations of the effect of the federal and state energy tax incentives on the cost to the customer of installing one applicable energy conservation program measure and one applicable renewable resource program measure.
2. The auditor shall also present the following information to the customer during, or upon completion of, the program audit:
- a. An explanation of the arrangement services, post-installation inspection requirement and consumer grievance procedures as established in 6 MCAR §§ 2.2304, 2.2306, and 2.2308, with a brief description of how the customer can qualify for and use such services;
 - b. A copy of the most recent Master List of contractors, lenders and suppliers for the region, as issued by the Agency;
 - c. An explanation of the benefits of and eligibility requirements for the Weatherization Assistance Program for Low Income Person 10 C.F.R. § 440 (1980):

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d. If the audit is of a rental property, a separate list of those improvements necessary to bring the residence in compliance with Minn. Stat. § 116H.129, subd. 3. (1978) and a statement describing remedies available to tenants for violations of those standards.

3. If the eligible customer is not at his or her residence at the time scheduled for presentation of the audit results or otherwise declines an in person presentation, the auditor is relieved of any obligation to deliver the results in person. In this case, the results shall be mailed to the customer.

F. Prohibitions.

1. An auditor shall not recommend or discuss any supplier, contractor or lender to any customer. The auditor may state whether the participating utility or heating supplier by whom he or she is employed installs or finances the sale or installation of program measures, but shall not recommend that service.

2. The auditor shall not exclude any applicable program measures in the presentation of the audit to the customer.

3. An auditor shall not estimate or discuss with the customer the costs or energy cost savings of installing any product which is not defined as an energy conserving practice or a program measure.

4. The auditor shall not recommend fuel switching.

G. Required disclosure. The auditor shall provide the customer with a written statement of any substantial interest which the auditor or the auditor's employer has, directly or indirectly, in the sale or installation of any program measure.

6 MCAR § 2.2304 Arrangement services.

A. Financing arrangement service. Each participating utility and heating supplier shall provide an arrangement service for financing the supply or installation of any program measure, upon request of a customer. This financing arrangement service shall consist of all the following:

1. Providing the customer with the most recent Master List of lenders and an agency compiled list of other financing programs offered by federal, state or local governments and explaining these financing programs to the customer;

2. Providing the customer with a standard credit application and offering to assist the customer with a standard credit application; and

3. Providing a service in order to further assist and answer any additional questions of the customer.

B. Installation arrangement service. Each covered utility shall provide an arrangement service for the installation of any program measure, upon request of a customer:

1. For audited homes this installation arrangement service shall consist of:

a. Providing a choice to the customer of either the most recent Master List of contractors willing to install measures within the price range that the auditor specifies, or providing the most recent Master List of contractors; and

b. All the following:

(1) Providing up to three (3) standard bid forms per measure recommended by the auditor and providing the customer with a choice of having the form filled in by either the customer or the auditor.

(2) Supplying the customer with written information on recommended measures to be installed; and

(3) Providing a service in order to further assist and answer any additional questions of the customer regarding the arrangement process or the actual bids, when received.

2. For non-audited homes, this installation arrangement service shall consist of all the following:

a. Providing the Master List of contractors;

b. Providing up to three (3) standard bid forms to the customer;

c. An offer to supply the customer with written information on the various measures; and

d. Providing a service in order to further assist and answer any additional questions of the customer regarding the arrangement process or actual bids, when received.

C. Response time for services. The participating utilities and heating suppliers shall provide the services described in 6 MCAR § 2.2304 A. and B. at the time of the energy audit, for a customer requesting an energy audit. If an audit is not performed, the service shall be provided within twenty (20) days of a customer's request.

D. Prohibitions.

1. Participating utilities and heating suppliers shall not recommend any particular contractor, lender, supplier or

program measure although participating utilities and heating suppliers may inform customers of their own installation and supply services if they are on the most recent Master List.

2. Participating utilities and heating suppliers shall not arrange for financing or installation with any contractor, lender or supplier not on the most recent Master List.

3. Participating utilities and heating suppliers shall not provide arrangement services for measures which are not approved program measures.

E. Standardized bid forms. The agency shall develop a standardized bid form for use pursuant to 6 MCAR § 2.2304. This form shall be the only one used by the participating utilities and heating suppliers for arranging installation under MECS.

6 MCAR § 2.2305 Master list of contractors, lenders and suppliers.

A. Issuance of lists.

1. The agency shall prepare and maintain the Master List of the MECS suppliers, contractors and lenders. The agency shall provide notice through trade organizations to suppliers, contractors and lenders of the procedures for inclusion on the Master List for the MECS program.

2. Application forms and listing criteria for businesses wishing to be on the Master List shall be available from the agency, participating utilities, and heating suppliers. These forms and listing criteria shall be made available at the time of publication of notice of procedures for inclusion on the Master List.

3. Within sixty (60) days following the receipt of an application for inclusion on the Master List, the agency shall evaluate the application pursuant to 6 MCAR § 2.2305 B, and either place the business on the Master List or inform the business, in writing, of the reasons for its exclusion from the list.

4. Every thirty (30) days after the publication of the first Master List, the agency shall issue revisions to the Master List which include any additions, deletions or information changes. These revisions shall be issued to all participating utilities and heating suppliers. Every six (6) months, a new Master List shall be published.

B. Eligibility requirements.

1. To be eligible for listing, contractors and suppliers must enter into a written agreement with the agency.

a. Contractors shall agree in writing with the agency to meet the following requirements for each arranged installation:

(1) Comply with the applicable DOE installation standards found in 10 CFR 456 subparts G, I and install only measures that are labeled as meeting DOE material standards;

(2) Install only measures that are covered by the measures warranty (except for caulking and weatherstripping);

(3) Enter into a written contract with each customer detailing the job to be performed, its costs and a statement that the installation will be in compliance with all applicable DOE material and installation standards. This contract shall be in simple language;

(4) Warrant in the contract that any defect in materials manufacture, design or installation found within one year from the date of installation shall be remedied without charge and within two weeks;

(5) Maintain comprehensive general liability insurance covering:

(a) bodily injury; \$100,000 per person

\$300,000 per occurrence

(b) Property damage; \$50,000 each occurrence

\$100,000 aggregate; and

(6) Comply with all applicable federal, state and local laws;

(7) Participate in good faith in the conciliation conference when a complaint is made by a customer;

(8) Hold harmless from liability the participating utility or heating supplier in any contract between contractor and customer when the contractor is not a participating utility or heating supplier; and

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(9) Agree to notify the MECS inspection agency at the completion of the installation pursuant to 6 MCAR § 2.2306.

b. Suppliers shall agree in writing with the agency to meet the following requirements for each customer:

(1) Supply program measures which meet applicable DOE material standards;

(2) Provide, at a minimum, to any person who purchases a measure from the supplier, a warranty in writing that the person shall be entitled to obtain, within a two week period after notice by the customer to the supplier and at no charge, appropriate replacement parts or materials for those measures found to be defective within one year from the date of purchase due to a defect in materials, manufacture or design.

(3) Comply with all applicable federal, state and local laws;

(4) Have a method for informing customers that the supplier carries products which are program measures, that these products have a measures warranty and are labeled as meeting the DOE material standards;

(5) Participate in good faith in the conciliation conference when a complaint is made by a customer.

c. Lenders shall agree in writing to meet the following requirements for each arranged financing.

(1) Not to take a security interest in real property that is used as a residence unless the customer acknowledges in writing that he or she is aware of the consequence of default on the loan;

(2) Permit a rebate on unearned finance charges and impose no penalties if a customer prepays a loan (either voluntarily or as a result of default). When prepayment is the result of default, the rebate shall be computed from the day of acceleration;

(3) Comply with all applicable federal, state and local laws; and

(4) Participate in good faith in the conciliation conference when a complaint is made by a customer.

2. Disclosure of unresolved complaints. All businesses must inform the agency in their application for listing of the existence of any unresolved complaints against that business on file with the Consumer Division of the Minnesota Attorney General's Office or the Office of Consumer Services. Failure to report this information will result in exclusion from the Master List. The existence of three or more unresolved complaints against an applicant on file with the above agencies involving, but not limited to, the following subject matter shall result in exclusion from the Master List:

a. Misrepresentation of materials used in installation;

b. Improper installation of materials, based on manufacturer's or other standard installation procedure; or

c. False or misleading claims concerning energy savings to be produced by the measure.

C. Removal from the master list.

1. Any supplier, lender or contractor shall be removed from the Master List for violation of either the eligibility requirements in 6 MCAR § 2.2305B or the contract between the lender, contractor or supplier and agency as required in the same section.

a. Violations shall be reported to the agency by the post-installation inspectors and the mediators of consumer complaints. The post-installation inspectors and mediators shall also report to the agency whether the violation has been corrected or not, two weeks after the initial report of this violation.

b. Within one (1) week after the agency receives a report of violation, the agency shall send written notice to the contractor, lender, or supplier notifying the business of the reported violation. The contractor, lender, and supplier shall correct the violation within two weeks of mailing of the notice or within one week, send to the agency a written explanation as to why it is not a violation. The agency shall review the letter and the report of the inspector and will notify the contractor of its decision.

c. If the contractor, lender or supplier fails to correct the violation within two weeks after it has received notice of the agency's decision that a violation exists, it shall be temporarily delisted. This temporary delisting shall be in effect for thirty (30) days. The agency shall then send a second notice to the contractor, lender, or supplier explaining the temporary and permanent delisting procedures and invite a written response from the business prior to the end of the thirty (30) day period. A copy of this notice shall be sent to all participating utilities and heating suppliers. If the violation concerns a contractor, the contractor may see the records of the reported violation. If no resolution is made within thirty (30) days of mailing of the notice the contractor, lender or supplier will be permanently de-listed.

2. Any supplier, lender or contractor permanently removed from the Master List shall not be relisted for at least six (6) months after being so de-listed. To be relisted, all violations under the program must be corrected and inspected and all other listing requirements must be met.

6 MCAR § 2.2306 Post-installation inspections.**A. Inspection procedures.**

1. Each covered utility shall arrange to conduct the post-installation inspections of its customers required in this section. By Dec. 15, 1980 each covered utility shall submit to the agency, for approval, its plans for conducting the inspections and for coordinating these inspection with the agency and the Office of Consumer Services.

2. No person shall conduct or perform an inspection unless he or she has been qualified by the agency, pursuant to 6 MCAR § 2.2307 C.

3. No inspector shall conduct an inspection if he or she has financial interest in the contractor whose work is to be inspected.

4. During the inspection, the inspector shall determine whether:

- a. The installation conforms with DOE installation standards; and
- b. In the case of a consumer complaint, the complaint is justified.

5. An inspection report shall be developed by the agency. The inspector shall use this report to certify that the installation meets all DOE installations standards.

Within five (5) days of the inspection, the inspector shall report to the customer, the contractor and the Agency whether or not any violations of the installation standards were found. If the Agency determines that a violation exists the contractor shall correct any violation within two (2) weeks of receipt of the report and shall arrange for a reinspection of the installation within one week after correction.

B. Mandatory inspections.

1. Flue opening modifications;
2. Electric or mechanical ignition systems;
3. Wind energy devices; and
4. Solar domestic hot water systems.

C. Random inspections.

1. Four of the first ten arranged installations made by each contractor of each of the following program measures shall be inspected:

- a. Ceiling insulation;
- b. Floor insulation;
- c. Wall insulation; and
- d. Solar domestic hot water systems.

2. Ten percent of all utility arranged installations of each program measure listed in 6 MCAR § 2.2306 C.1. shall be inspected each year. The inspections required in 6 MCAR § 2.2306 C.1. shall count toward the fulfillment of this requirement.

3. At least one inspection shall be conducted each year of the arranged installations of the following measures for each contractor on the Master List:

- a. Ceiling insulation;
- b. Floor insulation;
- c. Wall insulation;
- d. Water heater insulation;
- e. Storm or thermal windows;
- f. Storm or thermal doors;
- g. Replacement burner (oil);

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- h. Solar domestic hot water systems; and
- i. Replacement solar swimming pool heaters.

Before April 1, 1982, the utility, or its designated inspection agency, shall determine whether all listed contractors have been inspected at least once by that date. Any contractor whose work has not been inspected by that time shall then be inspected. An additional inspection shall be required for any contractor whose installation has been found in violation of these rules. This review shall be done annually thereafter.

D. Inspections as a result of consumer complaints.

1. Within two (2) weeks of the receipt by the Office of Consumer Services of any customer complaint concerning arranged installation of the measures listed in 6 MCAR § 2.2306 B.1. and C.3., an inspection shall be conducted to determine the existence of any violations of these rules. Within five (5) days after the inspection, a copy of the inspection report shall be sent to the Office of Consumer Services.

2. All inspections conducted as a result of a consumer complaint shall be counted toward the fulfillment of the inspection requirements in 6 MCAR § 2.2306 C.1., 2. and 3.

6 MCAR § 2.2307 Qualification procedures for auditors and inspectors.

A. Prohibition of discrimination. No person shall be denied the right to become an auditor or inspector on the basis of race, religion, nationality, creed, age or sexual preference.

B. Auditors.

1. Training

a. No person shall be eligible for certification pursuant to 6 MCAR § 2.2307 B.2., unless he or she has first participated in a training course which has been approved by the agency and which covers the subject matter tested in the auditors' certification examination.

b. Any present auditor with six (6) months experience who has completed twenty-five (25) audits, or any registered engineer or any architect shall be permitted to take an agency approved orientation session, in lieu of the requirements of 6 MCAR § 2.2307 B.1.a.

c. Two months prior to the first public offer of the audit, the participating utility and heating supplier shall submit to the agency for approval a plan to develop and administer a program of in-service training for the continued education of certified auditors. The agency shall approve a plan if it reviews and updates the material listed in 6 MCAR § 2.2307 B.2.b., provides the auditors with additional technical information and the program measures and audit techniques and reviews the communications skills needed for the interaction with the homeowner.

2. Certification.

a. No person shall participate in the MECS Program as an auditors, unless he or she has first passed a certification examination conducted by the agency.

b. The certification examination shall test for the following qualifications:

(1) A general understanding of the three types of heat transfer and the effects of temperature and humidity on heat transfer;

(2) A general understanding of residential construction terminology and components;

(3) A general knowledge of the operation of the heating and cooling systems used in residential buildings, including the need and provision for combustion air;

(4) A general knowledge of the different types of each applicable program measure, of the advantages and disadvantages and applications of each, and of the DOE installation standards;

(5) The capability to conduct the MECS energy audit including:

(a) A working knowledge of the energy conserving practices defined in this plan.

(b) The ability to determine the applicability of each of the program measures, and

(c) A proficiency in the auditing procedures for each applicable program measure established in 6 MCAR § 2.2303.

(6) A working ability to calculate the steady state efficiency of furnaces or boilers;

(7) An understanding of the nature of solar energy and its residential applications including:

- (a) Insulation,
 - (b) Shading,
 - (c) Heat capture and transport, and
 - (d) Heat transfer for hot water;
- (8) An understanding of the nature of wind energy and its residential applications including:
- (a) Wind availability,
 - (b) Effects of obstruction,
 - (c) Wind capture,
 - (d) Power generation,
 - (e) Interfaces with residential and utility power lines; and
- (9) A working knowledge of building and fire codes related to the installation and safety of wood burning appliances.
- c. These examinations shall be conducted by the agency and offered at the following times:
 - (1) Within two (2) days after the completion of each state-sponsored training course or orientation session, or
 - (2) Once a month, until February 1982, with a minimum of two examinations per year afterward.
 - d. Certification shall be valid for one year.
 - e. After one year, each auditor must be recertified. Recertification procedures shall be as follows:
 - (1) One month prior to the date of certificate expiration, the auditor shall attend a recertification course, as required by the agency. Attendance in this course shall recertify the auditor for the next year.
 - (2) The recertification course requirement for auditors shall be eliminated for any particular year, if the agency determines that no changes were made in the MECS Program that year. Certification shall then be automatically renewed.
 - (3) This recertification shall occur annually, for the life of the program.
 - f. Any person who is certified to conduct Residential Conservation Service audits in another state shall not be required to take the training course established in 6 MCAR § 2.2307 B.1., but shall be required to pass the Minnesota certification examination.
- C. Inspectors.
- 1. Qualifications to conduct random inspections.
 - a. No person shall participate in the MECS Program as a general inspector unless he or she has been qualified. To become qualified each person must first take a training course, which has been approved by the agency.
 - b. The training course shall cover the following subject matters:
 - (1) The measures listed in 6 MCAR § 2.2306 C.3.;
 - (2) Methodology to evaluate whether the installation of a measure conforms to DOE installation standards;
 - (3) The MECS recommended standards for R-values for each insulation measure, pursuant to 6 MCAR § 2.2303
- D.1.
- c. Each covered utility shall submit to the agency for approval a plan for the training of general inspectors, as required in 6 MCAR § 2.2307 C.1.a., by January 15, 1980. The agency shall approve a plan if it ensures coverage of the subject matter pursuant to 6 MCAR § 2.2307 C.1.b.
 - d. Each covered utility shall notify the agency of each person qualified as a general inspector within two weeks after that person has been qualified.
- 2. Qualifications to conduct mandatory inspections.
 - a. No person shall participate in the MECS Program as a specialized inspector unless he or she has been qualified. To

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become qualified each person must first take training courses which have been approved by the agency. Each person shall only be qualified to inspect those measures for which that person has been trained.

b. The training courses shall cover:

(1) The following subject matter concerning flue opening modifications and electrical or mechanical ignition systems:

(a) Applicable state and federal codes and regulations;

(b) An understanding of gas appliances used in residential buildings, including basic system requirements, components and operation, and an understanding of potential malfunctions of gas appliances;

(c) An understanding of gas appliance controls and safety controls, including automatic gas valves, limit switches, and thermostats;

(d) An understanding of basic furnace and boiler circuitry, including electrical components, and the use of appropriate meters for testing gas appliance circuitry;

(e) An understanding of the purpose, general structure, and operational systems of vent dampers including the advantages and disadvantages of each type; an ability to service and install electrical, mechanical, and thermal vent dampers;

(f) An understanding of the purpose, basic system requirements and components, and operation of electrical or mechanical ignition systems; an ability to service and install the system, an understanding of schematic diagrams and potential malfunctions of the system;

(g) An understanding of the types of vents, draft diverters, and heat transfer components; an understanding of venting theory including ventilation air, dilution air, vent sizing, and venting installation procedures; an ability to perform leak and spillage checks, and to use instrumentation to measure carbon monoxide and carbon dioxide emissions from gas appliances;

(h) An understanding of proper combustion and proper flame characteristics and gas piping procedures; and

(i) An understanding of the methodology to evaluate whether the installation of the measures conform with DOE installation standards.

(2) The following subject matter concerning wind energy devices:

(a) An understanding of the structural characteristics of wind energy devices;

(b) An understanding of national and local codes governing the electrical interconnection between the wind energy device and the residential and/or utility electrical system; and

(c) Methodology to evaluate whether the installation of a wind energy device conforms with DOE installation standards.

(3) The following subject matter concerning solar domestic hot water systems:

(a) The residential construction methods employed in the region and the characteristics of structures that would preclude a safe and enduring solar installation;

(b) The applicable provisions of the HUD (*Intermediate Minimum Property Standards Supplement*), Solar Heating and Domestic Hot Water Systems 4930.2, 1977 Edition.

(c) The design, operation, installation and degradation of residential hot water and heating systems with which the solar devices will interconnect; and

(d) The connection of the solar devices into the existing residential systems, including testing for satisfactory performance of the solar devices and the modified system, according to the requirements of the HUD (*Intermediate Minimum Property Standards Supplement*), Solar Heating and Domestic Hot Water Systems 4930.2, 1977 Edition.

(e) Methodology to evaluate whether the installation of a solar domestic hot water system conforms with DOE installation standards.

c. Each covered utility shall submit to the agency for approval a plan for the training of specialized inspectors as required in 6 MCAR § 2.2307 C.2.a. by January 15, 1980. The agency shall approve a plan if it ensures coverage of the subject matter pursuant to 6 MCAR § 2.2307 C.2.b.

d. Each covered utility shall notify the agency of each person qualified as a specialized inspector, within two weeks after that person has been qualified.

6 MCAR § 2.2308 Consumer grievance procedures.

A. Conciliation conference.

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1. OCS shall be responsible for the mediation of customer complaints against lenders, suppliers, contractors, and participating utilities and heating suppliers which are acting as lenders, suppliers, or contractors under the MECS Program.

2. Before utilizing the OCS Mediation Service customers shall be directed by the participating utilities and heating suppliers or OCS to first bring their complaint to the attention of the contractor, supplier, lender, or participating utility or heating supplier which is acting as a lender, supplier or contractor. If the complaint is not resolved, the customer shall fill out a MECS customer complaint form supplied by OCS.

3. Within three working days of receipt of a written MECS customer complaint, an OCS mediator will contact the customer and the party complained against to ascertain their positions in regard to the complaint. If necessary, the OCS mediator shall conduct a conciliation conference between the parties in person or by phone.

4. OCS shall report to the Agency, the name of any lender, supplier or contractor which, after two weeks notice from OCS has failed:

- a. To respond to attempts to contact it; or
- b. To actively participate in good faith in the mediation process within 30 days of initial contact; or
- c. To correct program violations or take remedial measures agreed to in mediation within two (2) weeks after agreement.

B. Annual report. The Office of Consumer Services shall submit to the agency by May 15 each year, up to and including May 15, 1986, a report containing the following information for the twelve (12) month period ending the preceeding April:

1. The number and nature of complaints against suppliers, contractors and lenders which have been handled through the conciliation conference; and
2. The number and function of employees within OCS assigned to the MECS Program.

6 MCAR § 2.2309 Customer payments.

A. Customer billing.

1. Each covered utility and heating supplier, when billing the customer for any costs it incurred under the MECS, including arranged loans, shall identify and list the charges separately on the billing for the charges. The customer shall be allowed to include payment for those charges with payment for the utility bill.

2. When receiving a payment from a customer that includes payment for utility service or fuel and payment for any MECS service, the covered utility and heating supplier shall credit the payment to utility service or fuel first, and then credit the remainder to MECS Program charges, unless the customer specifies otherwise.

B. Loan payments.

1. If the lender agrees, a loan arranged by a covered utility pursuant to 6 MCAR § 2.2304 A. may be repaid by the customer as part of the periodic utility bill. The utility may recover from the lender the cost incurred by the utility in carrying out this repayment.

2. If the lender agrees, any loan for the purchase or installation of program measures made or arranged by a heating supplier shall be subject to the following requirements:

a. The heating supplier shall allow the customer to repay the loan over a period of not less than three years, unless the customer chooses a shorter repayment schedule. The heating supplier may impose a minimum periodic payment of five dollars (\$5).

b. A lump-sum payment of outstanding principal and interest may be required by the lender upon default in payment by the customer.

c. No penalty shall be imposed by a heating supplier or a lender for payment of all or any portion of an outstanding loan prior to the date that such payment would be due.

C. Termination of service. No participating utility or heating supplier shall terminate or restrict utility or fuel service upon customer default or non-payment of any MECS Program charges and loans.

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PROPOSED RULES

6 MCAR § 2.2310 Utility supply, installation and financing.

A. Survey of utilities.

1. Each covered utility which supplies or installs any program resource measure:
 - a. Shall be listed as a supplier or contractor pursuant to 6 MCAR § 2.2305, in the same manner and subject to the same requirements as any other supplier or contractor;
 - b. Shall charge fair and reasonable prices for the supply or installation of program measures;
 - c. Shall not discriminate unfairly among eligible customers in undertaking the above described activities.
2. Beginning in April, 1981, the agency shall conduct an annual survey of prices charged for the supply or installation of goods and services comparable to those the covered utilities supply or install. If the agency determines that the prices charged by covered utilities for the supply and installation of program measures are significantly different from the typical local prices and interest rates disclosed in the agency's survey, or the agency receives complaints from contractors or suppliers regarding the prices, the agency shall notify the covered utility of disparity in prices and request a written justification with supporting documentation. This documentation with copies of the survey shall then be sent to the Minnesota Attorney General's Office, Anti-Trust Division.

B. Financing. Whenever a covered utility undertakes to finance its own lending program for program measures through financial institutions, the utility shall seek such funds from institutions located in the area covered by the lending program.

However, if the covered utility determines that this limitation is disadvantageous to its customers, or not feasible, the limitation shall not apply.

6 MCAR § 2.2311 Reporting and recordkeeping.

A. Annual report. Each covered utility and heating supplier shall submit to the agency by May 15 of each year up to and including May 15, 1986, a report containing the following information for the twelve (12) month period ending the preceding April:

1. The approximate number of customers in its system and, if available, the percentage of that number for whom the covered utility or heating supplier provides the primary heating fuel;
2. A copy of the program announcement;
3. The number of requests for each of the following services as well as the number of requests fulfilled:
 - a. Program audit,
 - b. Installation arrangement,
 - c. Financing arrangement, and
 - d. Billing service for repayment of loans;
4. The number of installations of program measures installed by, supplied by, or financed by the covered utility or heating supplier;
5. The number and results of post-installation inspections, including description of violations;
6. The number and function of employees assigned to the program; and
7. The costs incurred, including that portion of the cost paid by individual customers for services received and that portion paid by all ratepayers, in providing each type of the following services:
 - a. the program audit,
 - b. installation arrangement,
 - c. loan arrangement, and
 - d. post-installation inspections.

B. Recordkeeping requirements.

1. Each covered utilities and heating supplier shall keep the following records and shall be kept for the periods indicated:
 - a. For five (5) years from the date of the program audit, the name and address of each customer who receives a program audit;
 - b. For five (5) years from the date of the program audit, a copy of the data collected and the estimated cost and savings information for each customer who receives a program audit.

- c. For five (5) years from the date of the request, each request for a furnace audit;
 - d. For five (5) years from the date of the arrangement, the name and address of each customer for whom installation or financing of measures was arranged; and
 - e. For two (2) years from the date of the program audit, the total amount and cost of fuel purchased for the period of twelve months prior to and twelve months following each audit. This information is only required for those utilities and heating suppliers which supply the primary heating fuel to the customer.
2. This information shall be made available to the agency upon request.

6 MCAR § 2.2312 Heating suppliers.

- A. Any heating supplier may apply to the agency to participate in the MECS Program.
- B. Any heating supplier or association of heating suppliers may apply to the agency for a waiver of any requirement of this plan, except those listed in 6 MCAR § 2.2312 C. All waivers that do not substantially limit either the delivery of services described in this plan or the conservation potential of the program shall be approved by the agency.
- C. The following requirements of these rules shall not be waived:
 - 1. The calculation procedures in Appendix A and the ban on advertising in program announcements offered, as established in 6 MCAR § 2.2302 A.2.b.
 - 2. The reporting and recordkeeping requirements, pursuant to 6 MCAR § 2.2311.
 - 3. The on-site energy audit, pursuant to 6 MCAR § 2.2303.
 - 4. The arrangement service for the financing of program measures, pursuant to 6 MCAR § 2.2304 A., C., and D.
 - 5. The distribution of Master Lists developed, pursuant to 6 MCAR § 2.2305.
 - 6. The offer of the consumer complaint process, pursuant to 6 MCAR § 2.2308, and
 - 7. The exclusive use of certified auditors, pursuant to 6 MCAR § 2.2307.
- D. Any participating heating supplier may voluntarily withdraw from this program after completing all outstanding services offered to its customers.
- E. A participating heating supplier which does not provide MECS services or does not comply with the requirements listed in 6 MCAR § 2.2312 C., shall be excluded by the agency from participating in the MECS Program.

6 MCAR § 2.2313 Non-regulated utility program.

- A. Any non-regulated utility may apply to the Agency for inclusion in the MECS Program.
- B. A non-regulated utility or an association of non-regulated utilities may apply for a waiver of any requirement in this rule, except as noted in 6 MCAR § 2.2313 C. All waivers that do not substantially limit either the delivery of services listed or the conservation potential of the program shall be approved.
- C. The following requirements of these rules shall not be waived:
 - 1. The on-site program audit, pursuant to 6 MCAR § 2.2303.
 - 2. The arrangement services for the financing of program measures, pursuant to 6 MCAR § 2.2304 A., C., and D.
 - 3. The distribution Master Lists developed pursuant to 6 MCAR § 2.2305.
 - 4. The offer of the consumer complaint process, excluding post-installation inspections, pursuant to 6 MCAR § 2.2308.
 - 5. The exclusive use of certified auditors, pursuant to 6 MCAR § 2.2307.
- D. The following requirements of this rule shall not be required for non-regulated utilities:
 - 1. Program Promotion, pursuant to 6 MCAR § 2.2302.
 - 2. Post-installation Inspection Services, pursuant to 6 MCAR § 2.2306.
 - 3. Customer Payments, 6 MCAR § 2.2309 A. and B.
 - 4. Reporting and Recordkeeping, pursuant to 6 MCAR § 2.2311.

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PROPOSED RULES

E. Any participating non-regulated utility may voluntarily withdraw from this program after completing all outstanding services offered to its customers.

F. A participating non-regulated utility which does not comply with the requirements listed in 6 MCAR § 2.2312 C. shall be excluded by the agency from participating in the MECS Program.

Appendix A

Procedures for Calculating Energy Savings for Program Measures and Practices

The following procedures shall be the basis for calculating energy savings for program measures and practices for the program announcements.

A. Energy conserving measures.

1. General energy savings equation. The following equation will be used to calculate energy savings for the practices and measures listed below, except for those that are already termed in E.

$$\text{Equation \#1. } \frac{\Delta E = \Delta H \times D \times 20.4}{N \times V}$$

Where

ΔE = The quantity of annual energy savings in the appropriate energy units, e.g. hundreds of cubic feet of natural gas, gallons of fuel oil, or kilowatt hours of electricity.

ΔH = The difference in design heat loss per degree Fahrenheit between the improved condition and the existing condition for infiltration and/or thermal transmission. Equations for calculating H are listed in subsequent subsections.

D = The normalized annual degree days as published by the National Oceanic and Atmospheric Administration (NOAA).

N = The seasonal operating efficiency of the heating system.

V = The heating value of the fuel type, consistent with ΔE and ΔH .

2. Caulking.

$$\text{Equation \#2: } \Delta H = .018 \times I \times \text{Vol}$$

Where

I = change in infiltration rate in air changes per hour

Vol = volume of heated space in cubic feet

3. Weatherstripping.

Use equation # 2

4. Furnace efficiency modifications.

a. Replacement furnaces or boilers.

$$\text{Equation \#3. } \Delta E = E_h \left(1 - \frac{N_0}{N_1}\right)$$

b. Furnace replacement burner. (ΔE is given as a range)

$$\text{Equation \#4. } \begin{array}{l} \text{Low estimate of } \Delta E = .10E_h \\ \text{High estimates of } \Delta E = .18E_h \end{array}$$

c. Flue opening modifications. (ΔE is given as a range)

$$\text{Equation \#5. } \begin{array}{l} \text{Low estimate of } \Delta E = .07E_h \\ \text{High estimate of } \Delta E = .10E_h \end{array}$$

d. Install electronic ignition system

(1) If pilot is turned off during the summer.

$$\text{Equation \#6. } \Delta E = \frac{3600F}{V} p$$

(2) If pilot is left on in the summer.

Equation #7.
$$\Delta E = \frac{7300F_p}{V}$$

Where

- E_h = Total annual energy used for space heating, in units of fuel.
- N_o = The seasonal operating efficiency of the existing heating system.
- N_1 = The seasonal operating efficiency of the proposed heating system.
- F_p = Rate at which pilot uses energy, in BTU per hours. (Typically 800 to 1000 Btu per hour).
- V = Heating value of the fuel type in Btu per unit of fuel.

5. Replacement central air conditioner.

Equation #8.
$$\Delta E = E_c \left(1 - \frac{PSE}{NSE}\right)$$

Where

- E_c = Annual energy used by existing central air conditioner, in units of fuel.
- PSE = Present seasonal efficiency.
- NSE = New (proposed) seasonal efficiency.

6. Ceiling insulation.

Equation #9.
$$\Delta H = \left(\frac{1}{R_o} - \frac{1}{R_1}\right) A$$

Where

- R_o = Total R-value in present condition.
- R_1 = Total R-value of proposed condition.
- A = Area for which additional insulation is being proposed.

7. Wall insulation.

Use equation #9 for above grade walls.

8. Floor insulation.

Use equation #9.

9. Duct insulation.

Equation #10.
$$\Delta E = \frac{\left(\frac{1}{R_o} - \frac{1}{R_1}\right) (T_2 - T_1) A \times \text{HRS}}{NV}$$

Where

- R_o = The total R-value of the ducts before improvement.
- R_1 = The total R-value of the ducts after improvement.
- T_2 = Average temperature of air inside ducts during an on cycle of the heating system.
- T_1 = Average temperature of the unconditioned space the ducts pass through.
- A = Duct area for which insulation is proposed.
- HRS = Number of hours the heating system operates in a heating season.
- N = Seasonal operating efficiency of the heating system.
- V = Heating value of fuel in Btu per unit of fuel.

10. Pipe insulation.

Equation # 11.
$$\Delta E = \frac{(Q_1 - Q_0) L \times \text{HRS}}{NV}$$

Where

- Q_1 = Heat loss in Btu/hr. ft. before improvement
- Q_0 = Heat loss in Btu/hr. ft. after improvement

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PROPOSED RULES

- L = Length of uninsulated pipes in unconditioned space.
HRS = Number of hours per year the heating system operated in a heating season.
N = Seasonal operating efficiency of the heating system.
V = The heating value of the fuel in Btu per unit of fuel.

11. Water heater insulation.

- a. If water heater is in an unconditioned space.

$$\text{Equation \#12. } \Delta E = \frac{8760A \left(\frac{1}{R_0} - \frac{1}{R_1} \right) (T_w - T_a)}{N_r V}$$

- b. If water heater is in a conditioned space.

$$\text{Equation \#13. } \Delta E = \frac{H \times A \times \left(\frac{1}{R_0} - \frac{1}{R_1} \right) (T_w - T_a)}{N_r V}$$

Where

- R₀ = Total R-value of the water heater before improvement.
R₁ = Total R-value of the water heater after improvement.
T_w = Hot water temperature.
T_a = Average air temperature of area surrounding water heater.
N_r = Recovery efficiency of water heater.
V = Heating value of fuel type in Btu per unit of fuel.
H = Number of hours per year that the outside temperature is above 65°F.

12. Storm and thermal windows.

$$\text{Equation \#14. } \Delta H = (U_0 - U_1) \times A$$

Where

- U₀ = The U-value of the existing window assembly.
U₁ = The U-value of the proposed window assembly.
A = The area of the window assembly.

13. Storm and thermal doors.

Use equation #14 where:

- U₀ = The U-value of the existing door assembly.
U₁ = The U-value of the proposed door assembly.
A = The area of the door assembly.

14. Heat reflective and heat absorbing window or door material.

$$\text{Equation \#15 } \Delta E = \frac{A \times F_{ss} \times F_{es}}{N_{ac}}$$

Where

- A = Area of glazing
F_{ss} = Summer shading factor
F_{es} = Glazing orientation factor
N_{ac} = Seasonal efficiency of the air conditioning system.

15. Load management. Each utility offering such system will provide ΔE according to the particular system that the utility offers.

16. Clock thermostats.

Energy savings will be given for a single 8 hour night setback.

$$\text{Equation \#16a } \Delta E = .07E_h \text{ for } 5^\circ\text{F setback}$$

$$\text{Equation \#16b } \Delta E = .10E_h \text{ for } 10^\circ\text{F setback}$$

$$\text{Equation \#16c } \Delta E = .11E_h \text{ for } 15^\circ\text{F setback}$$

Where

- E_h = Total annual energy used for space heating, in units of fuel.

17. Solar domestic hot water.

Equation #17 $\Delta E = \text{SSF} \times E_{\text{hw}}$

Where

SSF = Solar saving fraction = fraction of hot water supplied by the solar system. (Target SSF = .7)

E_{hw} = Annual energy used for heating domestic hot water, in millions of Btus.

18. Passive solar systems.

a. Direct gain glazing, indirect gain-water well storage, indirect gain—trombe wall storage.

Energy savings for 100 square feet of double glazing with R-8 night insulation: (ΔE is given as a range)

Equation #18 $\Delta E = \frac{10 \times \text{PSF} \times F_0}{N}$ High estimate

$\Delta E = .6 \times \text{High estimate}$ Low estimate

b. Indirect gain-thermosiphon air panel

Energy savings for 100 square feet of panels:

Equation #19 $\Delta E = \frac{3.5 \times \text{PSF} \times F_0}{N}$ High estimate

$\Delta E = .7 \times \text{high estimate}$ Low estimate

c. Sunspace systems. Energy savings for 100 square feet of vertical double glazing:

Equation #20 $\Delta E = \frac{5 \times \text{PSF} \times F_0}{N}$ High estimate

$\Delta E = .6 \times \text{High estimate}$ Low estimate

Where

ΔE is in million of Btu

PSF = Prime Solar Fraction, estimated by auditor.

F_0 = Orientation Factor, from tables

N = Heating system seasonal efficiency

d. Window heat gain retardants.

Same as equation #14

19. Wind energy devices.

a. Systems providing utility grade power that can be sold to the electric utility when the system provides excess power. A system will be chosen with an Annual Wind System Output (AWSO) equal to one half the current annual electric use.

Equation #21a Low estimate of $\Delta E = .8 \text{ AWSO}$
High estimate of $\Delta E = 1.2 \text{ AWSO}$

b. Systems providing variable voltage power for heating use only. A system will be chosen with an Annual Wind Systems Output (AWSO) equal to one half of the annual heat supplied by the space heating system.

Equation #21b Low estimate of $\Delta E = .8 \text{ AWSO}$
High estimate of $\Delta E = 1.2 \text{ AWSO}$

Where

AWSO = Annual Wind System Output in kwh

20. Replacement solar swimming pool heaters.

Equation #22 $\Delta E = \text{SSF} \times E_{\text{sp}}$

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Where

SSF= Solar Saving Fraction = Fraction of swimming pool heat supplied by the solar system. (Target SSF = .5)

E_{sp} = Energy used to heat the pool for the months of May through September.

21. Install positive shut-off's for all fireplaces or fireplace stoves.

$$\text{Equation \#23} \quad \Delta H = 1.08 (Q_0 - Q_1) A$$

Where

Q_0 = The infiltration value in cubic feet per minute per square foot for the existing condition before improvement.

Q_1 = The infiltration value after improvement with a positive shut-off.

A = The cross sectional area of the flue or connector in square feet.

22. Install thermal shutters, shades, or draperies on exterior windows and glass doors.

Equation #14 will be used.

B. Energy conserving practices.

1. Furnace efficiency maintenance and adjustments.

a. Periodic cleaning and combustion efficiency adjustments. Savings for gas conversion units will be estimated at up to 15%. Savings for gas-designed systems will be estimated at up to 5%. Savings for oil heating systems will be estimated at 5% to 15%.

b. Periodic cleaning or replacing of filters in forced air systems. Savings will be estimated at 5% to 10%.

c. Fan setting on forced air furnaces reduced to 80°F if possible. Savings will be estimated at up to 5%.

d. Increase fan speed. Savings will be estimated at up to 5%.

e. Reduce aquastat setting to 140°F between December 1 and March 1 and 120°F between March 2 and November 30 or other reduction as appropriate to individual boiler. Savings will be estimated at 5% to 10%.

2. Nighttime temperature setback. Savings estimates will be the same as for clock thermostats.

3. Reducing thermostat settings in winter. Savings will be estimated at 3% per °F reduction for 24 hours per day.

4. Raising thermostat settings in summer. Savings will be estimated at 5% per °F increase for 24 hours per day.

5. Water flow reduction in showers and faucets. Savings will be estimated at up to 40% of total energy used for domestic hot water.

6. Reducing hot water temperatures. Savings will be estimated at about 10% for reducing temperature from 140°F to 120°F.

7. Reducing energy use when a home is unoccupied.

a. Reducing thermostat setting to 55°F when home is unoccupied for four hours or more. Use equation #16b.

b. Turning an air conditioner off when no one is home. Savings will be estimated at up to 25% of energy used for air conditioning.

c. Turning a water heater off when a home is vacant for 2 or more days. Savings will be estimated at 1/365 of water heater jacket losses for each day the heater is turned off.

8. Plugging leaks in attics, basements, and fireplaces. Savings will be estimated at up to 30%.

9. Sealing leaks in pipes and ducts. Savings will be estimated at up to \$6 per month for fixing a dripping hot water pipe or faucet. Savings for patching leaks in ducts in unconditioned spaces will be estimated at up to 15% of the energy used for space heating.

10. Efficient use of shading.

Use Equation #14.

C. Energy Index

$$\text{Energy Index} = E \times F_w$$

Where:

E is energy content of all fuel (including electricity) used during the months of November thru April, in Btus.

F_w is a weather adjustment factor. It is the ratio of the number of degree days in an average heating season (Nov. 1 thru April 30) to the number of degree days for the heating season preceding the calculation.

Energy Agency Conservation Division

Proposed Temporary Rules for the Establishment of the Minnesota Energy Conservation Service Program

Request for Public Comment

Notice is hereby given that pursuant to Minn. Stat. § 15.0412, subd. 5 (1978), the Energy Agency proposes to adopt temporary rules establishing the Minnesota Energy Conservation Service Program. To meet the deadlines established by the U.S. Department of Energy requiring the establishment of the Residential Conservation Service Program, the Minnesota Energy Agency intends to adopt temporary rules regarding this program until the permanent rules have been promulgated.

The proposed temporary rules which are the subject of this notice are exactly the same as the Minnesota Energy Agency's proposed permanent rules establishing the Minnesota Energy Conservation Service Program, 6 MCAR §§ 2.2300-2.2313. These proposed permanent rules are published in this same issue of the *State Register* and can be found immediately preceding this notice.

All interested or affected persons may submit written material containing data and their views on the proposed temporary rules to the Minnesota Energy Agency, Attention: Alan Lessik, 980 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101, telephone (612) 297-2117, within twenty (20) days after the publication of this notice. The temporary rules may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rules.

October 20, 1980

Mark Mason, Director
Energy Agency

Department of Transportation

Proposed Amendment of Rules Governing Weight Limitations on Interstate Highways and Designated Routes

Notice of Hearing

Notice is hereby given that a public hearing in the above entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), as amended, in Room 81, State Office Building (between Aurora and Fuller), St. Paul, Minnesota on December 5, 1980, at 10:00 a.m.

The Commissioner of Transportation has been provided the statutory authority to promulgate rules governing weight limitations on interstate highways and designated routes in Minn. Stat. § 169.832, (1978). The proposed amended rules, if adopted, would modify or newly designate certain streets or highway routes, or segment of a route, to carry the gross weights permitted under Minn. Stat. § 169.832 which are generally 20,000 pounds per single axle, 34,000 pounds per tandem axle, and a total gross weight of 80,000 pounds. Certain streets and highway routes heretofore designated by the commissioner in calendar year 1980 are proposed for continued designation. Other routes are proposed to be added, deleted or modified in length.

A copy of the rules is attached. Additional copies of the proposed rules are now available and one free copy may be obtained by writing to:

F. C. Marshall
Assistant Commissioner for Technical Services
Minnesota Department of Transportation
413 Transportation Building
St. Paul, Minnesota 55155

The rules will be available at the door on the date of the hearing.

Notice is hereby given that twenty-five (25) days prior to the hearing a Statement of Need and Reasonableness will be

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PROPOSED RULES

available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness will include a summary of all of the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The proposed rules are subject to change as a result of the rule hearing process. The Department of Transportation therefore strongly urges those who are potentially affected by these proposed rules to participate in the rule hearing process.

All interested or affected persons will have an opportunity to participate concerning the adoption of proposed rules governing Weight Limitations on Interstate Highways and Designated Routes. Statements may be made orally and written material may be submitted at the hearing. The Department of Transportation hereby requests those submitting written statements to provide a copy of said materials to the address given previously, if possible. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted at the hearing. Whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Harry Seymour Crump, Hearing Examiner, Office of Administrative Hearings, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8111, either before the hearing or within five (5) working days after the close of the hearing. If so ordered by the hearing examiner, the hearing record may remain open and such materials may be submitted for a period longer than five (5) working days but not exceeding twenty (20) calendar days after the close of the hearing. All such statements and materials will be entered into and become a part of the record for this proceeding. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411 to 15.0417 and § 15.052; as well as by 9 MCAR §§ 2.101 to 2.112 (Minnesota Code of Agency Rules). If you have any questions about this procedure, call or write the hearing examiner.

Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Department of Transportation may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Department of Transportation. 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 the department (in the case of the department's submission or resubmission to the Attorney General).

The department expects that one hundred persons may attend the hearing and it estimates that one to two hours will be necessary for the department to present its evidence at the hearing.

It is not anticipated that adoption of the proposed rules will result in the expenditure of public monies by local bodies of government to implement the rules for the two years immediately following its adoption within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) 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 \$250.00, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative 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.

October 20, 1980

Richard P. Braun, Commissioner
Department of Transportation

Rules as Proposed for Calendar Year 1981

14 MCAR § 1.5050 Weight limitations on interstate highways and designated routes.

A. Purpose. The purpose of these rules is to carry out the mandate of the legislature and to effectuate that mandate as set forth in Minn. Stat. § 169.832 with reference to the establishment of weight limitations on interstate highways and designated routes in Minnesota.

B. Scope. The scope of these rules is intended to be confined within the framework of and consistent with Minn. Stat. § 169.832.

C. Jurisdiction and effect. These rules are adopted by the Commissioner of Transportation as the means to designate certain streets or highway routes, or segment of a route, to carry the gross weights permitted under Minn. Stat. § 169.832.

PROPOSED RULES

Explanatory Note: Both the 12 month and seasonal routes are listed together. The 12 month routes are all in capital letters. The seasonal routes are in small letters. The routes are listed in numerical order and read geographically from west to east and from south to north.

Trunk Highways

- T.H. 1—From west state border to Jct. T.H. 32.
- T.H. 2—In its entirety from west state border to Jct. T.H. 61 (I-35). FROM JCT. I-35 IN DULUTH TO ARROWHEAD BRIDGE.
- T.H. 3—From Jct. T.H. ~~65~~ 60 to Jct. T.H. 55.
FROM JCT. T.H. ~~110~~ TO T.H. ~~242~~ 5.
- T.H. 4—From Jct. T.H. 14 north to Jct. T.H. 68.
- T.H. 5—From west Jct. T.H. 19 to T.H. 212.
From Jct. T.H. 41 to I-494.
FROM JCT. I-494 TO MISSISSIPPI RIVER.
From Mississippi River to ~~T.H. 64 (Mounds Boulevard)~~ Grand Avenue (Ramsey Street).
(EAST 7TH STREET) FROM T.H. 52 (ROBERT STREET) EAST TO EAST MINNEHAHA AVENUE.
- T.H. 6—From Jct. T.H. 18 to east Jct. T.H. 210.
- T.H. 7—From Jct. T.H. 12 east to Jct. T.H. 15.
FROM T.H. 15 TO JCT. I-494.
From Jct. I-494 to Jct. T.H. 100.
- T.H. 8—From Jct. I-35 to east state line (St. Croix River).
- T.H. 9—From Jct. T.H. 29 to Jct. T.H. 59.
- T.H. 10—FROM WEST STATE LINE TO BECKER COUNTY C.S.A.H. 10 (FRAZEE).
From C.S.A.H. 10 Becker County (Frazee) to Anoka.
~~From Jct. T.H. 47 to Jct. I-694.~~
FROM JCT. T.H. 47 TO JCT. I-694.
- T.H. 11—From Jct. T.H. 32 to Baudette.
- T.H. 12—From west state line to north Jct. T.H. 7 (Ortonville).
From Jct. T.H. 59 to Jct. T.H. 100.
FROM T.H. 280 TO ~~I-694~~ WISCONSIN.
~~FROM I-694 TO WISCONSIN.~~
- T.H. 13—From Jct. I-90 (Albert Lea) to ~~west~~ Jct. T.H. ~~49~~ 60.
From Jct. T.H. 282 northeast to Jct. T.H. 101.
FROM JCT. T.H. 101 TO I-35W.
- T.H. 14—From Jct. T.H. 75 to 2 miles west of I-35 (24th Avenue N.W.).
FROM I-35 WEST TO 24TH AVENUE NORTHWEST IN OWATONNA.
From Jct. I-35 to Jct. T.H. 218 (Havana).
From Jct. T.H. 56 to Jct. T.H. 57 (Kasson).
FROM JCT. T.H. 57 (KASSON) TO ~~JCT. T.H. 52~~ EAST ROCHESTER CITY LIMITS.
From Jct. T.H. ~~52~~ 74 (St. Charles) to Jct. T.H. 61.
- T.H. 15—From Jct. I-90 to Jct. T.H. 257.
- T.H. 16—From Jct. I-90 to east Jct. T.H. 52.
From Jct. T.H. 44 to Jct. T.H. 61.
- T.H. 18—From Jct. T.H. 210 to north Jct. T.H. 169.
From south Jct. T.H. 47 to north Jct. T.H. 47.
From Finlayson to east Jct. T.H. 23.

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PROPOSED RULES

- T.H. 19—From Jct. T.H. 59 to Jct. T.H. 22.
- T.H. 21—From south Jct. T.H. 13 to Jct. 169.
- T.H. 22—From Jct. T.H. 109 to Jct. T.H. 14.
From Jct. T.H. 212 to Jct. T.H. 55.
- T.H. 23—From Jct. T.H. 269 to ~~north Lyon County Line.~~ T.H. 55.
~~From Granite Falls to T.H. 55.~~
FROM T.H. 55 IN PAYNESVILLE TO I-94.
From Jct. I-94 to south Jct. I-35.
From north Jct. I-35 to ~~Jct. T.H. 423.~~ Askov.
- T.H. 24—From Jct. I-94 to Jct. T.H. 10.
- T.H. 25—From south Jct. T.H. 5 to Norwood.
FROM I-94 TO SHERBURNE COUNTY C.S.A.H. 11.
From Sherburne C.S.A.H. 11 to north Jct. T.H. 10.
From Jct. T.H. 18 to Merrifield.
- T.H. 27—From Jct. T.H. 75 to Jct. T.H. 9.
From Jct. T.H. 29 to Jct. T.H. 127.
From south Jct. T.H. 71 to Jct. T.H. 25.
From north Jct. T.H. 47 to Jct. T.H. 65.
From I-35 to Jct. T.H. 73 (Moose Lake).
- T.H. 28—From west state line to south Jct. T.H. 9.
From Morris to Cyrus.
FROM 5TH STREET NORTHWEST IN GLENWOOD TO JCT. I-94.
- T.H. 29—From Jct. T.H. 212 to Jct. T.H. 7.
FROM JCT. I-94 TO ITS NORTH JCT. WITH T.H. 27 (ALEXANDRIA).
- T.H. 30—From Jct. T.H. 75 to north Jct. T.H. 59.
From Jct. T.H. 4 to south Jct. T.H. 15.
- T.H. 32—From Jct. T.H. 11 to Jct. T.H. 59.
- T.H. 33—From Jct. I-35 to Jct. T.H. 53.
- T.H. 34—From Osage to Jct. T.H. 371.
- I-35 —CONTINUOUS FROM IOWA BORDER TO 1.0 MILE NORTH OF JCT. WITH I-535 IN DULUTH.
INCLUDES I-35W, AND I-35E FROM DOWNTOWN ST. PAUL TO VICINITY OF FOREST LAKE.
- T.H. 36—FROM JCT. I-35W TO ~~T.H. 242~~ SOUTH JCT. T.H. 95 NEAR STILLWATER.
- T.H. 37—From Jct. T.H. 53 to Jct. T.H. 135.
- ~~T.H. 37—In its entirety.~~
- T.H. 40—From west state line to Jct. T.H. 75.
- T.H. 41—From Jct. T.H. 169 to Jct. T.H. 212.
From Jct. T.H. 5 to Jct. T.H. 7.
- T.H. 44—From west Jct. T.H. 52 to Jct. T.H. 16.
- T.H. 45—From Jct. T.H. 210 (Carlton) to Jct. T.H. 33 (Cloquet).
- T.H. 47—FROM JCT. T.H. 10 IN ANOKA TO 2 MILES SOUTH OF JCT. I-694.
From south Jct. T.H. 27 to north Jct. T.H. 18.
- ~~T.H. 49—From Jct. T.H. 3 to north Jct. T.H. 55.~~
- T.H. 51—FROM I-94 TO I-694.
FROM WEST 7TH STREET IN ST. PAUL TO I-94 (SNELLING AVENUE FROM I-94 TO MONTREAL AVENUE, THEN MONTREAL AVENUE FROM SNELLING AVENUE TO WEST 7TH STREET).
- T.H. 52—From south state line to I-90.
FROM JCT. I-90 TO OLMSTEAD COUNTY ROAD 14. 5 MILES NORTH OF WEST JCT. T.H. 14 IN ROCHESTER.

- From Olmstead County Road 14 to Jct. T.H. 3.
FROM PLATO BOULEVARD TO WEST CITY LIMITS OF ST. PAUL.
- T.H. 52—~~FROM JCT. T.H. 100 TO NORTH JCT. 152 (OSSEO).~~
~~From Jct. I-94 (vicinity St. Cloud) to north Jct. T.H. 152.~~
From Jct. T.H. 152 to I-94 (vicinity St. Cloud).
- T.H. 53—From Jct. I-35 (Duluth) to south Jct. T.H. 169 (Virginia).
- T.H. 55—From Jct. T.H. 29 to Brooten.
FROM 6.5 MILES WEST OF JCT. T.H. 71 (BROOTEN) TO JCT. T.H. 23.
From Jct. T.H. 23 to Jct. T.H. 22.
~~FROM JCT. T.H. 22 (EDEN VALLEY) TO 1 1/2 MILES EAST OF T.H. 100.~~ OAK LAKE AVENUE.
FROM EAST 24TH STREET IN MINNEAPOLIS TO JCT. T.H. 5.
FROM JCT. T.H. 5 TO JCT. T.H. ~~410.~~ 61.
~~From Jct. T.H. 410 to Jct. T.H. 61.~~
- T.H. 56—From Adams to Jct. T.H. 30.
From Jct. T.H. 52 (Hampton) to Jct. T.H. 3.
- T.H. 57—From Jct. T.H. 14 to Jct. T.H. 60.
- T.H. 59—From south Jct. T.H. 30 to Jct. T.H. 23.
From Jct. T.H. 67 to Jct. T.H. 12.
From south Jct. T.H. 9 to north Jct. T.H. 28.
FROM SOUTH JCT. I-94 TO SHERIDAN AVENUE IN FERGUS FALLS. In Fergus Falls from Sheridan Avenue to north Jct. T.H. 210.
FROM NORTH JCT. I-94 TO JCT. T.H. 10.
From Jct. T.H. 10 to Jct. T.H. 2.
From Jct. T.H. 1 to north state line.
- T.H. 60—From south state line to east Jct. T.H. 14.
From Jct. T.H. 57 to north Jct. T.H. 52.
- T.H. 61—From Jct. T.H. 16 to I-90.
FROM NORTH JCT. I-90 TO 1 MILE NORTH OF T.H. 60 AT WABASHA.
FROM HASTINGS TO JCT. I-94.
FROM JCT. T.H. ~~242~~ 5 (EAST 7TH STREET) TO SOUTH JCT. T.H. 96.
From south Jct. T.H. 96 to Jct. T.H. 8.
FROM END OF I-35 (DULUTH) TO LAKE COUNTY ROAD 2 (TWO HARBORS).
- T.H. 63—~~From south state line to Jct. T.H. 56.~~
~~From Jct. T.H. 16 to Jct. I-90.~~
FROM JCT. WITH I-90 TO JCT. T.H. 52.
- T.H. 65—~~From south state line to south Jct. I-35.~~
FROM SOUTH JCT. I-35 (SOUTH OF ALBERT LEA) TO 2.3 MILES NORTH.
From 2.3 miles north of south Jct. I-35 to north Jct. I-35.
From Jct. I-694 to south Jct. T.H. 27.
From Pengilly to north Jct. T.H. 169.
- T.H. 67—From west Jct. T.H. 19 to Jct. T.H. 68.
- T.H. 68—From Jct. T.H. 23 to east Jct. T.H. 19.
From Jct. T.H. 67 to north Jct. T.H. 15.
- T.H. 71—From Jct. I-90 to Jct. I-94.
FROM JCT. I-94 NORTH TO NORTH 4TH STREET IN SAUK CENTRE.
From Jct. 4th Street North in Sauk Centre to Browerville.

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PROPOSED RULES

- From Jct. T.H. 10 to Jct. T.H. 34.
From Jct. T.H. 2 to Jct. T.H. 72 in Blackduck.
- T.H. 73—From Jct. I-35 to Jct. T.H. 27 (Moose Lake).
From south Jct. T.H. 169 to north Jct. T.H. 169 (Hibbing).
- T.H. 74—FROM JCT. I-90 NORTH TO JCT. T.H. 14 IN ST. CHARLES.
- T.H. 75—From south state line to Canadian Border.
- T.H. 79—From Elbow Lake to I-94.
- T.H. 87—From south Jct. T.H. 71 to north Jct. T.H. 71.
- T.H. 89—From Jct. T.H. 2 to south Jct. T.H. 1.
- I-90 —FROM WEST BORDER TO EAST BORDER.
- I-94 —CONTINUOUS FROM NORTH DAKOTA BORDER TO I-694 EAST OF ST. PAUL (INCLUDES YET TO BE CONSTRUCTED SEGMENT AT LYNDAL AVENUE LOCATION IN MINNEAPOLIS).
- T.H. 95—From Jct. T.H. 169 to Jct. I-35.
FROM SOUTH JCT. T.H. ~~242~~ 36 TO JCT. T.H. 12.
- T.H. 96—From Jct. I-35W to Jct. T.H. 61.
- T.H. 100—FROM I-494 TO T.H. 52.
FROM T.H. 52 TO I-94.
- T.H. 101—FROM JCT. T.H. 13 TO JCT. T.H. 169 IN SHAKOPEE.
From south Jct. T.H. 169 to Jct. T.H. 212 and 169.
FROM JCT. T.H. 152 TO JCT. T.H. 169 (ELK RIVER).
- T.H. 109—From Jct. T.H. 22 to Jct. I-90.
- T.H. 110—FROM JCT. T.H. 55 TO T.H. 56. ~~WEST.~~
- T.H. 127—From Jct. I-94 to Jct. T.H. 27.
- T.H. 135—From Jct. T.H. 53 to Aurora.
- T.H. 149—From Jct. T.H. 3 to North Jct. T.H. 55.
- T.H. 152—FROM T.H. 100 TO I-94.
- T.H. 152—FROM 49TH AVENUE NORTH TO JCT. T.H. 100.
FROM JCT. T.H. 52 IN OSSEO TO JCT. T.H. 101 (DAYTON).
From Jct. I-94 to Rogers.
- T.H. 169—From south state line to Jct. T.H. 21 (Jordan).
FROM JCT. T.H. 21 (JORDAN) TO JCT. T.H. 101 (SHAKOPEE).
From south Jct. T.H. 101 to Jct. T.H. I-494.
FROM JCT. I-494 TO T.H. 100.
From south Jct. T.H. 52 to Jct. T.H. 23.
From south Jct. T.H. 27 to west Jct. T.H. 210.
From Jct. T.H. 200 to south Jct. T.H. 53.
- T.H. 175—From west state line to Jct. T.H. 59.
- T.H. 200—From west state line to Jct. T.H. 9.
From north Jct. T.H. 371 to south Jct. T.H. 371.
- T.H. 201—From Jct. T.H. 10 to Jct. T.H. 169 (Elk River).
- T.H. 210—FROM JCT. I-94 EAST TO ST. ANDREWS STREET SOUTH IN FERGUS FALLS.
In Fergus Falls from St. Andrews south to Sheridan Avenue.
From west Jct. T.H. 10 to I-35.
- T.H. 212—From west state line to ~~Granite Falls~~. Carver County Road 10 (Walnut Street—Chaska).
~~From west Jct. T.H. 74 to Jct. T.H. 41.~~
~~From Carver County Road 10 (Walnut Street—Chaska) to Jct. T.H. 41.~~
From Jct. T.H. 101 to Jct. I-494.
(EAST 7TH STREET) FROM T.H. 52 (ROBERT STREET) EAST TO EAST MINNEHAHA AVENUE.
~~FROM JCT. T.H. 36 (NEAR STILLWATER) TO JCT. T.H. 95.~~

- T.H. 218—From south state line to 1-3/4 miles south of Jct. I-90.
 FROM 1-3/4 MILES SOUTH OF I-90 TO EAST JCT. I-90.
 FROM WEST JCT. I-90 TO 2 MILES NORTH.
 From 2.0 miles north of Jct. I-90 to Jct. T.H. 14.
- T.H. 226—From Jct. T.H. 34 into Dorset.
- T.H. 231—From west state line to I-94 (Moorhead).
- T.H. 242—(Main Street) from T.H. 10 to 9th Avenue (in Anoka).
- T.H. 263—From I-90 to Jct. C.S.A.H. 26 (Old T.H. 16).
- T.H. 268—From Jct. T.H. 75 into Edgerton.
- T.H. 270—From Hills to Jct. T.H. 75.
- T.H. 280—FROM JCT. I-94 TO JCT. T.H. 36.
- T.H. 282—From Jct. T.H. 169 to Jct. T.H. 13.
- T.H. 322—From Jct. T.H. 371 to Jct. T.H. 18.
- T.H. 324—FROM I-35 TO ITS JUNCTION WITH T.H. 361 IN PINE CITY.
- T.H. 329—From T.H. 59 for 3/4 mile east into University of Morris experimental station.
- T.H. 361—From I-35 to ~~Rush City~~ Jct. T.H. 324 (Pine City).
- T.H. 371—From Jct. T.H. 10 to Jct. T.H. 2.
- I-494 —FROM JCT. I-94 (FISH LAKE) TO PRESENT END OF I-494 AT TWIN CITY INTERNATIONAL AIRPORT.
 FROM T.H. 56 TO JCT. I-94 EAST OF ST. PAUL.
- I-535 —IN DULUTH FROM I-35 TO WISCONSIN.
- I-694 —FROM JCT. I-94 (BROOKLYN CENTER) TO JCT. I-94 EAST OF ST. PAUL.

City Streets

- Albert Lea —MARGARETHA AVENUE FROM T.H. 65 SOUTH TO 13TH STREET AND 13TH STREET EAST TO ITS TERMINI.
- Anoka —(MSAS) 9th Avenue from T.H. 242 to Hoffman Engineering.
 (MSAS) Tyler Street from 7th Avenue to Federal Cartridge.
- Blaine —85TH AVENUE FROM I-35W to 3601 (TRUCK TERMINAL IN THE CITY OF BLAINE).
- Brainerd —North and South 4th Street from Washington Street to Laurel Street.
Laurel Street from South 4th Street to East River Road.
- Cyrus —From 2 blocks south of Jct. T.H. 28 and CSAH 3 on Dahl Street to T.H. 28.
- Detroit Lakes—RANDOLPH ROAD FROM GABOR TERMINAL TO ROOSEVELT AVENUE; THEN ROOSEVELT AVENUE SOUTH TO T.H. 10.
- Faribault —2nd Avenue N.W. from Trunk Highway 60 north to Trunk Highway 3 (20th Street N.W.).
- Fergus Falls —DOUGLAS AVENUE FROM T.H. 59 to T.H. 210.
 SHERIDAN AVENUE FROM T.H. 59 AND 210 NORTH, TO WASHINGTON AVENUE, WEST ON WASHINGTON AVENUE ONE BLOCK TO SHERMAN STREET, THEN SOUTH ONE BLOCK ON SHERMAN STREET TO JUNIUS STREET.
 FROM T.H. 210 SOUTH ON ST. ANDREWS STREET TO WEST LINCOLN AVENUE, WEST ON

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PROPOSED RULES

WEST LINCOLN AVENUE TO SEWAGE PLANT ROAD, THEN SOUTH ON SEWAGE PLANT ROAD TO CENTRAL BY-PRODUCTS PLANT.

Glenwood —JUNCTION OF T.H. 28 AND MINNESOTA AVENUE TO NORTH LAKESHORE DRIVE, THEN NORTH LAKESHORE DRIVE TO THE WEST CORPORATE LIMITS OF GLENWOOD.

*Minneapolis—~~18TH AVENUE N.E. FROM ARTHUR STREET N.E. TO NEW BRIGHTON BOULEVARD (T.H. 8).~~

—ARTHUR STREET N.E. FROM 18TH AVENUE N.E. TO NEW BRIGHTON BOULEVARD (T.H. 8).

STINSON BOULEVARD FROM 18TH AVENUE N.E. TO BROADWAY STREET N.E.

I-35W NORTH FRONTAGE ROAD FROM STINSON BOULEVARD TO NEW BRIGHTON BOULEVARD (T.H. 8).

I-35W SOUTH FRONTAGE ROAD FROM STINSON BOULEVARD TO NEW BRIGHTON BOULEVARD (T.H. 8).

BROADWAY STREET N.E. FROM ARTHUR STREET N.E. TO MINNEAPOLIS EAST CITY LIMITS.

ARTHUR STREET N.E. FROM SUMMER STREET N.E. TO BROADWAY STREET N.E.

TAFT STREET N.E. FROM KENNEDY STREET N.E. TO BROADWAY STREET N.E.

INDUSTRIAL BOULEVARD N.E. FROM BROADWAY STREET N.E. TO I-35W.

NEW BRIGHTON BOULEVARD FROM I-35W NORTH FRONTAGE ROAD TO SOUTH FRONTAGE ROAD.

T.H. 55 (HIAWATHA AVENUE) FROM EAST 24TH STREET TO MINNEAPOLIS SOUTH CITY LIMITS.

CEDAR HIGHWAY FROM EAST 24TH STREET TO MINNEHAHA AVENUE.

CEDAR AVENUE FROM I-94 EXIT RAMP TO MINNEHAHA AVENUE.

MINNEHAHA AVENUE FROM I-94 TO EAST 26TH STREET.

EAST 26TH STREET FROM MINNEHAHA AVENUE TO 26TH AVENUE SOUTH.

26TH AVENUE SOUTH FROM EAST 26TH STREET TO EAST 27TH STREET.

EAST 24TH STREET FROM MINNEHAHA AVENUE TO CEDAR AVENUE.

WASHINGTON AVENUE SOUTH FROM 42ND AVENUE NORTH TO 10TH AVENUE NORTH, AND FROM 10TH AVENUE SOUTH TO 14TH AVENUE SOUTH (I-35W)

OAK LAKE AVENUE FROM OLSON HIGHWAY TO 10TH AVENUE NORTH.

10TH AVENUE NORTH FROM OAK LAKE AVENUE TO WASHINGTON AVENUE NORTH.

LYNDALE AVENUE NORTH FROM 42ND AVENUE NORTH TO NORTH CITY LIMITS.

49TH AVENUE NORTH FROM HUMBOLDT AVENUE NORTH TO WEST CITY LIMITS.

MARSHALL STREET N.E. FROM BROADWAY STREET N.E. TO EAST RIVER ROAD.

EAST RIVER ROAD FROM MARSHALL STREET N.E. TO NORTH CITY LIMITS.

UNIVERSITY AVENUE N.E. FROM LOWRY STREET N.E. TO NORTH CITY LIMITS.

LOWRY STREET N.E. FROM MARSHALL STREET N.E. TO 5TH STREET N.E.

KASOTA AVENUE S.E. FROM ELM STREET TO EAST CITY LIMITS.

ELM STREET S.E. FROM KASOTA AVENUE TO 17TH AVENUE S.E.

17TH AVENUE S.E. FROM ELM STREET TO ROLLINS AVENUE S.E.

ROLLINS AVENUE S.E. FROM 17TH AVENUE TO 15TH AVENUE S.E.

UNIVERSITY AVENUE S.E. FROM 23RD AVENUE S.E. TO EAST CITY LIMITS.

*Denotes a 1/4 mile deviation from the following listed routes as long as posted bridges are not utilized.

Moorhead —1ST AVENUE NORTH FROM 8TH STREET NORTH TO T.H. 10.

- Morris —Pacific Avenue from T.H. 59 to Park Avenue.
- New Ulm —Front Street from 8th Street North to Center Street, then Center Street from Front Street to Valley Street, then South Valley Street from Center Street to First South Street.
- Owatonna —Park Drive from County Road 75 (24th Avenue N.W.) to Railroad Tracks.
- Pine City —SEVENTH STREET FROM HILLSIDE AVENUE TO 8TH AVENUE WEST, FROM 4TH AVENUE WEST TO 3RD AVENUE WEST, FROM 2ND AVENUE WEST TO RIVER.
FOURTH STREET FROM HILLSIDE AVENUE TO 8TH AVENUE EAST, 5TH AVENUE EAST TO 3RD AVENUE EAST.
THIRD STREET FROM 3RD AVENUE EAST TO RIVER.
SECOND STREET FROM 3RD AVENUE EAST TO 2ND AVENUE EAST.
FIRST AVENUE EAST FROM CSAH 61 TO RAILROAD TRACKS.
SECOND AVENUE WEST FROM 7TH STREET TO CSAH 61.
SECOND AVENUE EAST FROM CSAH 61 TO SECOND STREET.
THIRD AVENUE WEST FROM 7TH STREET TO CSAH 61.
THIRD AVENUE EAST FROM CSAH 61 TO 2ND STREET.
FOURTH AVENUE WEST FROM 7TH STREET TO CSAH 61.
EIGHTH AVENUE WEST FROM 7TH STREET TO CSAH 61.
EIGHTH AVENUE EAST FROM CSAH 61 TO 4TH STREET.
HILLSIDE AVENUE FROM CSAH 61 TO FOURTH STREET.
- Rose Creek —3rd Street.
- St. Paul —DALE STREET FROM GRAND AVENUE TO LARPENTEUR AVENUE.
PLATO BOULEVARD FROM WATER STREET TO FILLMORE AVENUE.
CHESTER STREET FROM T.H. 3 TO PLATO BOULEVARD.
NORTH CLEVELAND AVENUE FROM UNIVERSITY AVENUE SOUTH TO WABASH AVENUE, THEN WABASH AVENUE ON NORTH CLEVELAND AVENUE TO VANDALIA STREET, THEN VANDALIA STREET TO I-94.
EAST SEVENTH STREET FROM EAST MINNEHAHA AVENUE TO ATLANTIC STREET, THEN ATLANTIC STREET NORTH TO RAILROAD TRACKS.
WACOUTA STREET FROM I-94 TO FIFTH STREET, THEN FIFTH STREET FROM WACOUTA STREET TO BROADWAY.
SHEPARD ROAD FROM T.H. 5 TO WARNER ROAD, THEN WARNER ROAD FROM ITS INTERSECTION WITH SHEPARD ROAD TO T.H. 61.
FROM T.H. 5 (WEST 7TH STREET) TO EAGLE STREET VIA RAMSEY STREET (GRAND AVENUE), SHERMAN STREET AND EXCHANGE STREET.
KELLOGG BOULEVARD RAMP FROM EAGLE STREET TO WASHINGTON STREET.
KELLOGG BOULEVARD FROM WASHINGTON STREET TO T.H. 61 (MOUNDS BOULEVARD).
ELWAY STREET FROM SHEPARD ROAD TO MONTREAL AVENUE.
THEN MONTREAL AVENUE FROM ELWAY STREET TO STEWART AVENUE, THEN STEWART AVENUE TO TEXACO TERMINAL.
MINNEHAHA AVENUE WEST FROM DALE STREET TO ARUNDEL STREET.
OTTO AVENUE FROM SHEPARD ROAD TO WEST 7TH STREET.

KEY: 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." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

WHITE BEAR AVENUE FROM I-94 TO EAST MINNEHAHA AVENUE.
EAST MINNEHAHA AVENUE FROM WHITE BEAR AVENUE TO BIRMINGHAM STREET.
CHILDS ROAD FROM WARNER ROAD TO THE SOUTHERLY LIMITS OF CHILDS ROAD.
MOUNDS BOULEVARD FROM I-94 TO EAST SEVENTH STREET.
SNELLING AVENUE (T.H. 51).

Sauk Centre —4th Street North from T.H. 71 to 331 North 4th Street.

Wells —Broadway Avenue from T.H. 109 south to 7th Street S.E.

Worthington —Oxford Street from T.H. 60 to T.H. 266.

County Roads

- Anoka —CSAH 23 (Naples Street) from CSAH 32 to County Road 105.
County Road 102 (57th Avenue) from T.H. 47 to Main Street (County Road 102).
County Road 102 (Main Street) from 57th Avenue to CSAH 2 (44th Avenue).
~~CSAH 32 (85th Avenue) from 3601 85th Avenue to 3701 85th Avenue.~~
CSAH 32 (85TH AVENUE) FROM 3601 85TH AVENUE TO 3701 85TH AVENUE.
CSAH 7 (7th Avenue) from T.H. 10 to Tyler Street (in Anoka).
T.H. 242 (Main Street) from T.H. 10 to 9th Avenue (in Anoka)
- Becker —CSAH 10 CONNECTIONS TO T.H. 10.
CSAH 10 from T.H. 10 west of Frazee to T.H. 10 east of Frazee.
- Carlton —CSAH 1 from Jct. T.H. 210 (Carlton) to Conoco Refinery (Wrenshall).
- Clay —CSAH 11 FROM T.H. 10 TO TRUCK STOP 1/2 MILE SOUTH OF I-94.
CSAH 52 FROM JCT. T.H. 9 (BARNESVILLE) TO JCT. I-94 (MOORHEAD).
- Douglas —CSAH 41 FROM I-94 TO ITS JCT. WITH CSAH 82.
CSAH 82 FROM CSAH 41 TO ITS JCT. WITH T.H. 29 IN ALEXANDRIA.
- Freeborn —CSAH 26 from Milwaukee Railroad Tracks to Jct. I-90.
CSAH 31 from Railroad Tracks to Jct. I-35.
- Hennepin —CSAH 1 (OLD SHAKOPEE ROAD) —FROM NESBITT AVENUE TO ~~FAI~~I-35W.
CSAH 3 (EXCELSIOR BLVD.) —FROM CSAH 18 TO T.H. 100.
CSAH 10 (BASS LAKE ROAD) —FROM ~~FAI~~494 TO CSAH 156.
CSAH 15 (SHORELINE BLVD.) —FROM CSAH 110 TO CSAH 19.
CSAH 18 —FROM ~~FAI~~494 TO T.H. 7
CSAH 18 —FROM CSAH 10 TO ~~FAI~~94.
CSAH 19 —FROM T.H. 7 TO CSAH 15.
CSAH 20 (BLAKE ROAD) —FROM CSAH 3 TO T.H. 7.
CSAH 34 (NORMANDEALE BLVD.) —FROM CSAH 1 (OLD SHAKOPEE ROAD) TO
~~FAI~~494.
CSAH 109 (85TH AVENUE NORTH) —FROM CSAH 18 T.H. 52.
CSAH 156 (WINNETKA AVENUE) —FROM CSAH 9 TO CSAH 10.
- McLeod —COUNTY ROAD 90 FROM T.H. 7 TO 1 1/4 MILES SOUTH.
CSAH 9 Plato to T.H. 212.
County Road 81 in Glencoe.
- Pine —CSAH 61 FROM JCT. OF T.H. 361 AND T.H. 324 TO ITS JCT. WITH CSAH 11 IN PINE CITY.
COUNTY ROAD 55 FROM CSAH 61 TO INDUSTRIAL PARK—PINE CITY.
CSAH 8 FROM CSAH 61 TO EAST 2ND STREET.
- Ramsey —COUNTY ROAD D (CSAH 19) FROM OLD T.H. 8 TO I-35W, IN RAMSEY COUNTY.

PROPOSED RULES

OLD HIGHWAY 8 (CSAH 77) FROM COUNTY ROAD D TO FIRST STREET SOUTHWEST, ~~IN RAMSEY COUNTY.~~

CLEVELAND AVENUE (CSAH 46) FROM COUNTY ROAD C TO COUNTY ROAD C-2. ~~IN RAMSEY COUNTY.~~

COUNTY ROAD C (CSAH 23) FROM ~~WALNUT STREET~~ WEST COUNTY LINE TO PRIOR AVENUE. ~~IN RAMSEY COUNTY.~~

COUNTY ROAD J (CSAH 1) (OR 85TH AVENUE N.E., ANOKA COUNTY CSAH 32) FROM I-35 TO 3701 85TH AVENUE N.E.

*Redwood

CSAH 7 from Seaforth to Jct. T.H. 19.

CSAH 1 and 16 from Clements to Jct. T.H. 71.

CSAH 4 and 17 from Wanda to Jct. T.H. 71.

CSAH 6 and 9 from Delhi to Jct. T.H. 19.

CSAH 10 and 30 from Lucan to Jct. T.H. 19.

CSAH 101 from North Redwood to Jct. T.H. 19.

CR 70 from Rowena to Jct. T.H. 71.

CR 80—entire segment.

*These are seasonally restricted 10 ton routes. Effective period to carry the increased weights is from July 15th each year until the following springload restrictions go into effect.

Sherburne —CSAH 11 from T.H. 25 to T.H.10.

Steele —CSAH 1 (North Street) from CSAH 45 (Hoffman Drive) east to CSAH 1 (North Cedar) in Owatonna.

CSAH 1 (North Cedar) from CSAH 1 (North Street) north to 11th Street in Owatonna.

CSAH 8 (Grove Street) from CSAH 19 (Rose Street) north and east to Cherry Street in Owatonna.

CSAH 9 from I-35 Exit #45 east to CSAH 45.

CSAH 19 (Rose Street) from CSAH 45 (Hoffman Drive) east to CSAH 8 (Grove Street) in Owatonna.

CSAH 25 (Bridge Street) from CR 75 (24th Avenue N.W.) east to I-35 in Owatonna.

CSAH 34 from I-35 Exit #3 east to CSAH 45.

CSAH 45 (Hoffman Drive in Owatonna) from North Steele County Line to T.H. 14.

~~(Hoffman Drive in Owatonna.)~~

CSAH 45 (Cedar and Oak Streets) from T.H. 218 and 14 Exit North to Pearl Street in Owatonna.

CSAH 45 (Hoffman Drive) from T.H. 14 in Owatonna south to CSAH 19 (Rose Street).

CSAH 48 (Main Street) from T.H. 218 and 14 north and west to CSAH 45 (Oak Avenue) in Owatonna.

CR 75 (24th Avenue N.W.) from T.H. 14 south to CSAH 25 (Bridge Street) in Owatonna.

Stevens —CSAH 13 Chokio only.

CSAH 9 Alberta only.

CSAH 8 from CSAH 1 to Jct. T.H. 9 (Hancock).

Traverse —CSAH 4 Browns Valley only.

CSAH 100 from 12th Street to Jct. T.H. 75.

Waseca —CSAH 3 from Waldorf to Jct. T.H. 14.

CSAH 9 from west county line to CSAH 3.

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PROPOSED RULES

CSAH 12 from CSAH 1 to T.H. 13.

CSAH 2 from County Road 53 to T.H. 14.

CSAH 53 from CSAH 2 to CSAH 5.

CSAH 5 from County Road 53 to CSAH 30.

CSAH 30 from CSAH 5 to T.H. 13.

Washington —CSAH 22 FROM T.H. 61 TO JCT. WITH CSAH 38.

CSAH 38 FROM JCT. WITH CSAH 22 TO JCT. WITH I-494.

Winona —County Road 23 from Jct. T.H. 14 to the Jct. T.H. 61 (Minnesota City).

SUPREME COURT

Decisions Filed Friday, October 24, 1980

Compiled by John McCarthy, Clerk

48721/266, (1979) Susan Louise Peterson, Appellant, vs. Paul Sorlien, Norman Jungclaus, et al, Michele Perkins. Hennepin County.

In an action by an adult against her parents and others for false imprisonment and intentional infliction of emotional distress it is held:

The evidence does not establish liability of parents for false imprisonment as a matter of law;

Admission of evidence to show that defendants acted in the good faith belief that plaintiff had been subjected to psychological duress by a religious group or sect was not error when plaintiff was claiming punitive damages;

Instruction that jury, in assessing plaintiff's credibility, could consider whether the litigation was supported financially by the religious group or sect which, according to defendants, had subjected plaintiff to psychological duress was not reversible error under the facts of this case;

The trial court properly directed a verdict in favor of a defendant whose contacts with the alleged false imprisonment and emotional distress were inconsequential, and

Refusal of trial court to permit amendment of complaint at outset of trial was not reversible error.

Affirmed. Sheran, C. J. Concurring specially, Peterson, J. Dissenting, Otis, J. and Wahl, J. Took no part, Amdahl, J. and Simonett, J.

50327, 50463/274 James R. Lemmer, et al, Plaintiffs, vs. IDS Properties, Inc., defendant and third party plaintiff, Respondent (50327) Appellant (50463) Waco Scaffolding and Shoring Company defendant and third party plaintiff, vs. Turner Construction Company, third party defendant, Appellant (50327) Respondent (50463). Hennepin County.

Where a general construction manager is the possessor of the property and has voluntarily, contractually undertaken the duty of taking precautions for the safe construction of a building, his failure to inspect an area of the construction that he knew was hazardous, and his failure to warn employees of the danger or to keep them from entering the area, is sufficient evidence to support a jury's verdict.

Where some of the defendants in a negligence suit, without acting as volunteers, enter into a reasonable and prudent settlement before the jury has returned the verdict, and where one of these defendants had a contract by which one of the non-settling defendants had agreed to indemnify it, the party to be indemnified can recover the indemnity without proving common liability with the party who agreed to indemnify it.

A settling defendant in a negligence suit, who joined a party that subsequently refused to settle, is entitled to be indemnified by the non-settling party if the jury finds that non-settling party to have been solely liable for the injury to the plaintiff.

Where all defendants, those who have settled and those who have not settled, failed to request that the jury determine the amount of damages, a ruling by the trial court that the settlement was reasonable and prudent constitutes a determination that the settlement is a proper amount for damages; the non-settling defendant has thereby waived his right to have the jury decide whether the settlement reflected all or only part of his liability.

Where a party to a prior oral contract proposes that a hold harmless clause be added for that party's benefit, this proposing party has a duty to convey the proposals to the personnel responsible for entering the oral agreement; failure to fulfill that duty nullifies the proposed addition to the agreement, and thus the signing of a delivery order is not to be read as an acceptance of the proposed addition, only as an acknowledged receipt of goods.

Otis, J. Took no part, Amdahl, J., and Simonett, J.

49753, 49941/131 Jim W. Miller Construction Inc., Respondent (49753) Appellant (49941) vs. Richard Schaefer, d.b.a. Realty Five, Appellant (49753) Respondent (49941). Stearns County.

A restrictive covenant in an employment agreement which, within a specified geographical area and for a specified period of time, prohibits defendant from acting as a real estate broker but allows him to act as a real estate salesperson is unreasonable and therefore unenforceable.

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

50472/Sp. State of Minnesota vs. Jeffrey Allen Gunn, Appellant. Crow Wing County.

Evidence that sexual penetration, which was admitted by defendant, was accompanied by force or coercion was, contrary to defendant's contention, sufficient to sustain the verdict.

Defendant, by failing to object to certain statements made by the prosecutor in his closing argument, is deemed to have forfeited his right to raise this issue on appeal.

Affirmed. Yetka, J.

50855/337 In the Matter of the Trusteeship under the Emil C. Kischel Trust Created by Last Will and Testament of Emil C. Kischel, Deceased. Hennepin County.

Our primary concern in construing a testamentary trust is to give effect to the testator's intent, as expressed in the plain language of the will.

In construing a will we cannot give effect to provisions in isolation, but must read the will as a whole.

Here, it is clear that the testator did not intend to give his grandson any interest in the trust property unless he survived his mother.

Reversed and remanded with instructions. Scott, J.

51413/Sp. Clayton Handeland vs. DeZurik Corporation, et al, Relators, Equitable Life Assurance Company. Workers' Compensation Court of Appeals.

A finding that thrombophlebitis, caused by surgery undertaken to treat an injury arising out of and in the course of employment continues significantly to contribute to employee's temporary total disability is manifestly contrary to the evidence and the inferences reasonable permissible therefrom.

Affirmed in part; reversed in part. Amdahl, J.

50720/331 Lee Guilliams, et al, vs. The Commissioner of Revenue, Relator. Tax Court.

The classification of farmers with nonfarm income into those with more than \$15,000 of nonfarm income and those with less for the purpose of allowing an offset of farm loss against nonfarm income under Minn. Stat. § 290.09, subd. 29 (1978), does not offend the equal protection clause or the uniformity clause of the federal and state constitutions, nor the due process clauses.

The order of the tax court is reversed. Simonett, J.

50289/340 In the Matter of the Application for the Discipline of Irving Shaw, an Attorney at Law of the State of Minnesota. Supreme Court.

Attorney censured, fined and placed on 3-year supervised probation. Per Curiam.

STATE CONTRACTS

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

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

Department of Natural Resources Waters Division Dam Safety Section

Notice of Request for Proposals for Contractual Services for Dam Safety Inspection and Evaluation for New London Dam

Notice is hereby given to request proposals for engineering consultant contract services for the purpose of conducting a Phase II dam evaluation for the New London Dam in Kandiyohi County, Minnesota.

The engineering consultant contractor will be required to provide a systematic inspection and evaluation of the deficiencies found in the Phase I study of the New London Dam which was conducted by the U.S. Corps of Engineers and published in July 1979. The evaluation shall identify alternatives for correcting the deficiencies as well as related reconstruction or repair costs.

Contact persons:

Memos P. Katsoulis or Craig Regalia
Minnesota Department of Natural Resources
Division of Waters, Development Section
Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
Phone (612) 296-0525 or (612) 296-0524

Estimated cost: Not to exceed \$20,000 (Phase II only)

Submission deadline: December 1, 1980

Interested persons may submit proposals to the above state contact persons.

The engineering consultant contractor must have a minimum of five years experience in dam engineering. This experience shall be documented in the consultant's proposal.

The consultant selected for this Phase II study will, at the option of the DNR and dependent upon the availability of funds, be expected to continue the project into the design stage (preparation of construction plans and specifications) and, at the DNR's option, contract administration and/or inspection.

Notice of Request for Proposals for Contractual Services for Dam Safety Inspection and Evaluation for Kettle River Dam

Notice is hereby given to request proposals for engineering consultant contract services for the purpose of conducting a Phase II dam evaluation for the Kettle River Dam in Pine County, Minnesota.

The engineering consultant contractor will be required to provide a systematic inspection and evaluation of the deficiencies found in the Phase I study of the Kettle River Dam which was conducted by the U.S. Corps of Engineers and published in September 1979. The evaluation shall identify alternatives for correcting the deficiencies as well as related reconstruction or repair costs.

Contact persons:

Memos P. Katsoulis or Craig Regalia
Minnesota Department of Natural Resources

Division of Waters, Development Section
Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
Phone (612) 296-0525 or (612) 296-0524

Estimated cost: Not to exceed \$20,000 (Phase II only)

Submission deadline: December 1, 1980

Interested persons may submit proposals to the above state contact persons.

The engineering consultant contractor must have a minimum of five years experience in dam engineering. This experience shall be documented in the consultant's proposal.

The consultant selected for this Phase II study will, at the option of the DNR and dependent upon availability of funds, be expected to continue the project into the design stage (preparation of construction plans and specifications) and, at the DNR's option, contract administration and/or inspection.

Notice of Request for Proposals for Contractual Services for Dam Safety Inspection and Evaluation for Grindstone River Dam

Notice is hereby given to request proposals for engineering consultant contract services for the purpose of conducting a Phase II dam evaluation for the Grindstone River Dam in Pine County, Minnesota.

The engineering consultant contractor will be required to provide a systematic inspection and evaluation of the deficiencies found in the Phase I study of the Grindstone River Dam which was conducted by the U.S. Corps of Engineers and published in September 1979. The evaluation shall identify alternatives for correcting the deficiencies as well as related reconstruction or repair costs.

Contact persons:

Memos P. Katsoulis or Craig Regalia
Minnesota Department of Natural Resources
Division of Waters, Development Section
Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
Phone (612) 296-0525 or (612) 296-0524

Estimated cost: Not to exceed \$20,000 (Phase II only)

Submission deadline: December 1, 1980

Interested persons may submit proposals to the above state contact persons.

The engineering consultant contractor must have a minimum of five years experience in dam engineering. This experience shall be documented in the consultant's proposal.

The consultant selected for this Phase II study will, at the option of the DNR and dependent upon availability of funds, be expected to continue the project into the design stage (preparation of construction plans and specifications) and, at the DNR's option, contract administration and/or inspection.

State Ceremonial House Council

Request for Letter of Interest for Architectural Program and Master Plan

The State Ceremonial Building Council, created by an act of the 1980 Legislature, has as one of its duties the charge to develop an overall restoration plan for the Minnesota State Governor's Residence (State Ceremonial Building) at 1006 Summit Avenue, St. Paul. The council requests expressions of interest from architects in response to a proposed project to produce a program analyzing the needs of the building, and a master plan which functionally and aesthetically best accommodates those needs. The large, early 20th Century, Tudor Revival building was built as a single-family residence, but now must fulfill the double function of Governor's residence with attendant requirements for comfort, security, and privacy; and as the State Ceremonial House, where numerous and frequently large gatherings are held in an atmosphere expected to favorably represent the State of Minnesota.

STATE CONTRACTS

The scope of the work includes the preparation of a program assessing existing building spaces, systems, and circulation patterns; determining immediate and long-term space and systems needs and space relationships; and evaluating present conditions in terms of immediate and long-term needs. From this program, a master plan is to be developed illustrating ways program requirements can best be achieved with modification and/or additions to the structure which are sympathetic to the architectural style and character of the building, and which can be phased to reflect the increasing need for modifications and the availability of funding.

A landscape architectural firm has been selected to make a program and master plan study for the grounds, and an interior design firm is being sought to provide a similar study for building interiors. It is expected that the architectural consultant will closely coordinate planning efforts with those of the other consultants.

Letters of interest should contain the following information: statement of interest; special qualifications of firm (including previous experience in similar projects); list of key personnel who would be assigned to this project along with brief resumes; and a list of references. Architects should be registered in, and residents of, the State of Minnesota.

A "walk thru" will be held at the residence between the hours of 3:00 p.m. and 4:00 p.m. on November 13, 1980, for those wishing to tour the building prior to submitting a letter of interest. Such letters and any questions regarding the project are to be directed to William Scott, 1011 Nicollet Mall, Minneapolis, Minnesota, 55403. (Telephone 612/388-8741.) Letters are due no later than November 27, 1980.

OFFICIAL NOTICES

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

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

Department of Administration Building Code Division Residential Energy Disclosure Program

Notice of Scheduled Examinations for Certification of Evaluators for the Energy Disclosure Program

The Minnesota State Legislature in 1978 enacted a statute that provided for energy conservation standards for existing residences.

This statute provides that the Building Code Division and the Minnesota Energy Agency promulgate rules and standards for energy conservation standards and a disclosure report of energy efficiency of the residence to the buyer of the residence at the time of sale.

This statute also provides for a waiver of the energy efficiency disclosure report, provided the buyer has a copy of the disclosure form and has signed the waiver provision.

October 1, 1980 is the effective date of the statute requiring compliance with the disclosure report at time of sale.

Copies of the disclosure form may be obtained from the Minnesota Energy Agency and Public Documents Section. Copies of the Energy Conservation Standards for Existing Residences (2 MCAR § 1.16201) are available from State Register and Public Documents Division, 117 University Avenue, St. Paul, MN 55117.

Energy evaluation of the residence and execution of the disclosure form is limited to Certified Energy Evaluators who are certified by the Department of Administration upon successful completion of a written examination.

2 MCAR § 1.16224 Standards for certification, prerequisites. Persons possessing one of the following qualifications shall be eligible to be admitted for examination.

- A. Building Officials, certified by examination by the Building Code Division.
 - B. Architects and mechanical engineers registered in the State of Minnesota.
 - C. Truth in Housing Evaluators and Truth in Sale of Housing Evaluators certified by examination by the Cities of St. Paul and Minneapolis.
 - D. Individuals experienced in weatherization procedures who have completed a minimum of twenty-five (25) audits and six (6) months satisfactory work with a non-profit program.
 - E. Employees of participating companies trained to perform audits under the Federal Residential Conservation Program.
 - F. Persons who have successfully completed a prescribed course or courses of training for residential evaluators, sponsored by the Minnesota Energy Agency.
 - G. Persons who have successfully completed a course or courses of training for residential evaluators sponsored by the University of Wisconsin Extension Division, or similar courses, with prior approval of the Building Code Division.
- Said persons shall be required to attend an orientation program prior to examination.
1. Persons who have certification of completion from the energy training course conducted by Aadland, Hoffman, Pieri, Energy Associates, Inc. or EES of Minnesota are also eligible.

Candidates shall submit their completed application together with a \$50.00 check made payable to the State Treasurer to Dept. of Administration, Building Code Division, 408 Metro Square, St. Paul, MN 55101, two weeks prior to the scheduled December test dates. For the scheduled November test dates applications may be submitted at the locations and times listed below.

Application forms are available from the Building Code Division, 408 Metro Square, St. Paul, MN 55101.

**Schedule of Orientation and Examinations
Energy Evaluator Program
Orientation and Test Locations at AVTI**

| Date | Location | Time |
|----------------------------|--|--------------------------|
| Nov. 17, 1980 Monday | Staples AVTI | 2:00 p.m. to 4:00 p.m. |
| Nov. 18, 1980 Tuesday | North Mankato AVTI | 10:00 a.m. to 12:00 p.m. |
| Nov. 18, 1980 Tuesday | Grand Rapids Community College | 10:30 a.m. to 12:30 p.m. |
| Nov. 19, 1980 Wednesday | 916 AVTI 3300 Century Ave. No. White Bear Lake. | 1:00 p.m. to 3:00 p.m. |
| Nov. 20, 1980 Thursday | Hennepin Tech. Center South Campus 9200 Flying Cloud Dr. Eden Prairie | 10:00 a.m. to 12:00 p.m. |
| Dec. 3, 1980 Wednesday | Hennepin Tech. Center South Campus 9200 Flying Cloud Dr. Eden Prairie, MN | 9:30 a.m. to 12:30 p.m. |
| Dec. 10, 1980 Wednesday | Hennepin Tech. Center South Campus 9200 Flying Cloud Dr. Eden Prairie, MN | 9:30 a.m. to 12:30 p.m. |

The Department of Administration shall issue a certificate to successful candidates upon submittal of a \$5,000.00 bond.

OFFICIAL NOTICES

Department of Agriculture Agronomy Services Division

Notice of Special Local Need Registration for Terraclor 75 WP and Turficide 10 G

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on October 22, 1980, issued Special Local Need Registrations for Terraclor 75 WP and Turficide 10 G manufactured by Olin Corporation, Little Rock, Arkansas 72203.

The Commissioner of Agriculture, based upon information in the applications, has deemed it in the public interest to issue such registrations, and has deemed that the information in the applications indicates that the pesticides do not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product labels, these Special Local Need Registrations permit the use of these products to control snow mold on lawns and turf.

The applications and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to these registrations (identified as SLN # MN 80-0017 and SLN # MN 80-0018) are on file for inspection at:

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

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

October 22, 1980

Mark W. Seetin, Commissioner
Department of Agriculture

Minnesota Teachers Retirement Association

Meeting Notice

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Friday, November 21, 1980, at 9 a.m. in the office of the association, 302 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota, to consider matters which may properly come before the board.

Department of Natural Resources Soil and Water Conservation Board

Notice of Change of Date of Regular Monthly Meeting

The Minnesota Soil and Water Conservation Board has changed the date of their regular monthly meeting from November 11 to November 18. They will meet in Room 551, fifth floor of the Space Center Building, 444 Lafayette Road, St. Paul, Minnesota. The meeting will convene at 9:00 a.m.

The Minnesota Soil and Water Conservation Board has changed the date of their regular monthly meeting from December 9 to December 16. They will meet in Conference Room B, sixth floor of the Space Center Building, 444 Lafayette Road, St. Paul, Minnesota. The meeting will convene at 9:00 a.m.

The Executive Committee of the Minnesota Soil and Water Conservation Board meets on Monday preceding every second Tuesday of each month.

Office of the Secretary of State

Notice of Vacancies in Multi-member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155; (612) 296-7876. Application deadline is November 25, 1980.

Board on Aging has one vacancy open immediately. The board coordinates and handles federal funds for programs for the aging, and makes grants to local community service agencies. Members are appointed by the governor, and receive \$35 per diem plus expenses. For specific information, contact Board on Aging, Suite 204, Metro Square Building, St. Paul 55101; (612) 296-2770.

Consumer Advisory Council on Vocational Rehabilitation has one vacancy open immediately for a business representative. The council advises the Assistant Commissioner for Vocational Rehabilitation on policy for rehabilitation services. Members are appointed by the Commissioner of Economic Security, and receive \$35 per diem. For specific information, contact Consumer Advisory Council on Vocational Rehabilitation, 3rd Floor, Space Center Building, St. Paul 55101; (612) 296-1822.

Investment Advisory Council has one vacancy, open January 1981. The council advises the state board of investment on improving the rate of return on the state's invested money. Members are appointed by the Board of Investment, and receive no compensation. For specific information, contact Investment Advisory Council, Room 105 MEA Building, 55 Sherburne Ave., St. Paul 55155; (612) 296-3328.

Human Services Occupations Advisory Council has one vacancy open immediately. The council reviews the rules and policies of health related licensing boards. Members are appointed by the governor, and receive \$35 per diem. For specific information, contact Human Services Occupations Advisory Council, 717 Delaware St. S.E., Mpls. 55440; (612) 296-5393.

Department of Transportation Technical Services Division

Appointment and Scheduled Meeting of a State Aid Standards Variance Committee

Notice is hereby given that the Commissioner of Transportation has appointed a State-Aid Standards Variance Committee who will conduct a meeting on Friday, November 7, 1980 at 9:00 a.m. in Room 612, State Transportation Building, John Ireland Boulevard, St. Paul, Minnesota.

This notice is given pursuant to Minn. Stat. § 471.705.

The purpose of the open meeting is to investigate and determine recommendation(s) for variances from minimum State-Aid roadway and parking standards as governed by 14 MCAR § 1.5032 M.4.b., Rules for State-Aid Operations under Minn. Stat. chs. 161 and 162 (1978), as amended.

The agenda will be limited to these questions:

1. Petition of Sibley County for a Variance from Standards for Diagonal Parking in the City of Arlington, Minnesota.
2. Petition of the City of St. Cloud for a Roadway Width Variance for the Design and Construction of the 10th Street Bridge in the City of St. Cloud.

Dated this 17th day of October, 1980.

Richard P. Braun
Commissioner of Transportation

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

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

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