

# STATE REGISTER

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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
<b>SCHEDULE FOR VOLUME 6</b>			
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28	Monday Dec 28	Monday Jan 4	Monday Jan 11
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\*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, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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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:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A 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
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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 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

## Department of Commerce Securities and Real Estate Division

### Proposed Rules SDiv 2014 (Agent Bonding) and SDiv 2030 (Cheap Stock), Relating to the Minnesota Securities Act

#### Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that, pursuant to her authority under Minn. Stat. § 80A.25 (1980), the Commissioner of Securities and Real Estate intends to amend SDiv 2014 (Agent Bonding) and SDiv 2030 (Cheap Stock), relating to the Minnesota Securities Act (Minn. Stat. ch. 80A). The commissioner desires that the proposed rules be amended without a public hearing in accordance with Minn. Stat. § 15.0412, subd. 4h (1980). On October 5, 1981 the commissioner caused to be published at 6 *State Register* 576 a notice of intent to amend SDiv 2030 (Cheap Stock) together with a copy of that proposed amendment. This notice, and the proposed amendment to SDiv 2030 which follows, supercede the earlier notice.

A free copy of the proposed rules may be obtained from the commissioner's office. Those interested in submitting comment pertaining to the proposed rules may do so within 30 days of publication of this notice in the *State Register*. Additionally, if during the 30-day comment period, seven or more persons make a written request for a hearing on the proposed rules, the commissioner will hold a public hearing in accordance with Minn. Stat. § 15.0412, subdivisions 4 to 4g (1980). A request for a copy of the proposed rules, all comments, any requests for a hearing and all questions regarding the proposed rules should be directed to:

Mr. Daniel W. Hardy  
Assistant to the Commissioner  
Securities and Real Estate Division  
Department of Commerce  
500 Metro Square Building  
Saint Paul, Minnesota 55101  
Telephone: (612) 296-5689

The proposed rules may be modified by the commissioner if the modifications are supported by the data and views submitted during the 30-day comment period, provided the modifications do not result in substantial change.

The commissioner has prepared a statement of need and reasonableness which contains a summary of the evidence justifying both the need for, and the reasonableness of, the proposed rules. The statement of need and reasonableness is available for inspection by the public, during regular business hours, at the above address.

**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

If no hearing is required, the commissioner will submit to the Attorney General the proposed rules and notice as published in the *State Register*, the rules as proposed for adoption, any written comments received by the commissioner during the 30-day comment period, and the statement of need and reasonableness for the rules. On the same day these materials are submitted to the Attorney General the commissioner will notify any person who has requested that the commissioner inform him or her of when these materials have been submitted to the Attorney General. Any person wishing to be so notified should contact Mr. Hardy at the address listed above.

A copy of the existing rules and proposed changes follows this notice.

Finally, Minn. Stat. ch. 10A.03 (1980) 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 (1980) 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.

December 7, 1981

Mary Alice Brophy

Commissioner of Securities and Real Estate

### Rules as Proposed

~~SDiv 2014 (a). No agent's license shall be issued or renewed unless the agent shall have first posted with the Commissioner a surety bond in the amount of \$5,000, in the case of an agent for a broker-dealer, and \$5,000 in the case of an agent for an issuer, on such form as the Commissioner may prescribe.~~

~~(b) An issuer or broker-dealer may post a blanket surety bond to cover all of its agents, in lieu of the bond required by paragraph (a) of this section. A blanket bond for the agents of a broker-dealer shall be in the sum of \$5,000 for each agent up to a maximum of \$50,000. A blanket bond for the agents of an issuer shall be in the sum of \$5,000 for each agent up to a maximum of \$50,000, or ten percent of the total offering price of the registration of securities of the issuer, whichever is less. Bond requirements for investment advisors.~~

~~(e) A. Amount. Any investment adviser who has custody of, or discretionary authority over, any assets of any client shall have first posted with the commissioner a surety bond in the amount of \$25,000, on such form as the commissioner may prescribe.~~

~~(d) B. Alternative compliance. Any appropriate deposit of cash or security shall be accepted in lieu of any bond required by this section. An appropriate deposit requires, in the case of deposited securities, that such the securities have a market value equal to 120 percent of the amount of the bond which would otherwise be required, and represent an interest in, or debt of, any of the persons whose securities are exempt from registration under Minn. Stat. § 80A.15, subdivision subd. 1, clauses clause (a), (b), (c), (d) or (e) (1978), as amended. At no time shall the market value of the securities on deposit be less than 105 percent of the amount of the required bond. Any deposit of cash or securities under this clause paragraph shall be made with an escrow agent, and under such terms and conditions as the commissioner deems appropriate, and shall remain with the depository for a period of three years after the last securities transaction conducted by the licensee or the effective date of any bond acquired by the licensee, whichever first occurs. The commissioner shall allow an irrevocable letter of credit in lieu thereof.~~

~~(e) The provisions of SDiv 2014(a) and (b) do not apply to any agent employed by a broker-dealer who continuously maintains net capital of not less than \$100,000. C. Nonapplication. SDiv 2014 (e) A. does not apply to any investment adviser who continuously maintains net capital of not less than \$100,000.~~

SDiv 2030 Cheap stock.

~~(a) The amount of "cheap stock" allowable, based upon the "fair value of the equity investment" as defined in SDiv 2029(b), shall not exceed three times the first 10 percent of equity investment and two times any further equity investment to a maximum number of shares of cheap stock allowable of 90 percent of the total number of shares to be outstanding after the proposed offering. A. Quantity. The maximum quantity of cheap stock allowable, expressed as a percentage of the total~~

# PROPOSED RULES

number of shares to be outstanding after the proposed offering, shall be determined by calculating the "fair value of equity investment" (SDiv 2029 (b) ) as a percentage of "equity investment" (SDiv 2029 (c) ) in accordance with the following formulations:

1. If the percentage is ten percent or less, the maximum quantity of cheap stock allowable shall be three times the percentage.

2. If the percentage is greater than ten percent, the maximum quantity of cheap stock allowable shall be two times the percentage plus ten percent.

The maximum quantity of cheap stock allowable shall not exceed 90 percent of the total number of shares to be outstanding after the proposed offering.

Exhibit SDiv 2030 A.-1.  
Maximum Amount of Cheap Stock Allowable  
(as a percentage of the shares to be outstanding)

<u>Fair Value of Equity Investment</u> <u>Divided by Equity Investment</u>	<u>Cheap Stock</u>
5%	15%
10%	30%
15%	40%
20%	50%
30%	70%
40%	90%
50%	90%

~~(b)~~ B. Definition. Cheap stock means securities:

~~(1)~~ 1. Issued in consideration of property tangible or intangible, or services, the value of which has not been reasonably established, or

~~(2)~~ 2. Issued at a price substantially less than the public offering price of the securities and which cannot be justified with reference to the existence of an active public market for such securities. Securities issued at a price substantially less than the public offering price of the securities means:

~~(aa)~~ a. Securities issued for less than ~~66 2/3%~~ percent of the public offering price if the securities were issued less than one year prior to registration;

~~(bb)~~ b. Securities issued for less than 50% percent of the public offering price if the securities were issued more than one year but less than two years prior to registration;

~~(cc)~~ c. Securities issued for less than ~~33 1/3%~~ percent of the public offering price if the securities were issued more than two years but less than three years prior to registration.

In the case of unexercised options, or other securities convertible into the same class of security as that proposed to be offered, the aggregate of the cash amount paid and the cash amount required to be paid pursuant to the conversion or exercise privilege shall be divided by the number of shares issuable upon conversion or exercise to determine whether the securities were "issued at a price substantially less than the public offering price."

~~(e)~~ C. Exclusions. Cheap stock does not include:

~~(1)~~ 1. Securities which have been outstanding more than three years at the time of the proposed registration, provided that the issuer ~~of or~~ its predecessors have been in active, continuous business operation for more than three years immediately prior to the proposed registration;

~~(2)~~ 2. Securities of an issuer which ~~(a)~~ had earnings during the fiscal year prior to registration or ~~(b)~~ had earnings during two or the three fiscal years prior to registration, as determined in accordance with generally accepted accounting

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## PROPOSED RULES

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principles, after taxes and excluding extraordinary income; ~~if~~. For each fiscal year such earnings ~~are~~ shall be in an amount equal to ~~4~~ four or greater than four percent of the proposed public offering price on all outstanding shares of the same class at the date of application for registration; or

~~(3)~~ 3. Securities previously issued pursuant to a registration under Minn. Stat. ch. 80A.

## Ethical Practices Board

### Proposed Rules Governing Campaign Financing (9 MCAR §§ 1.0001-1.0043); Economic Interest Disclosure (9 MCAR §§ 1.0100-1.0111); Lobbyists (9 MCAR §§ 1.0200-1.0209); Conflict of Interest (EC 300-307); Representation Disclosure (EC 500-507); and Hearings (EC 601-612)

#### Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Ethical Practices Board proposes to adopt amendments to the above entitled rules without a public hearing under Minn. Stat. § 15.0412, subd. 4h. Authority for the adoption of these rules is contained in Minn. Stat. § 10A.02, subd. 13.

The proposed amendments reflect changes in the statutes in 1979, 1980, and 1981; remove obsolete provisions and language; and enable the board to provide direction for the 1982 elections to individuals and associations required to register and file statements and reports with the board concerning campaign financing, economic interest disclosure, lobbying, conflicts of interest, representation disclosure, and hearings before the board.

A statement of need and reasonableness describing the board's reasons for each provision of the proposed rules and identifying the data and information relied upon to support the proposed rules is available from Mary Ann McCoy, Executive Director, Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155; telephone (612) 296-5148.

Interested persons have until January 27, 1982, to submit written comments on the proposed rules. The proposed rules may be modified if the data and views submitted to the board warrant modification and the modification does not result in a substantial change in the proposed language.

No public hearing will be held unless seven or more persons submit written requests for hearing within the 30 day comment period. If persons desire a public hearing on a proposed rule, the board requests but does not require that they identify the particular provisions to which they object. Also, the board would appreciate receiving their suggestions for modifications to the proposed language and the reasons and data relied upon to support the suggested modifications.

Persons who wish to submit comments or a written request for a public hearing should send their comments or request to Ms. McCoy at the address above.

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 sent to the Attorney General. 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 adopted, should submit a written request to Ms. McCoy.

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, MN 55155, telephone (612) 296-5615.

#### Rules as Proposed

The board proposes to amend existing rules pertaining to several areas within its jurisdiction. The board proposes to amend campaign financing rules (9 MCAR §§ 1.001-1.0043) with respect to filing deadlines, allocation of campaign literature expenses, treatment of contribution and expenditure limits for candidates who seek more than one office, contribution limitations for

judicial candidates, assessment and waiver of late filing fees, allocation of the cost of radio and television reports to constituents, allocation of the costs of preparation and distribution of sample ballots, application of contribution limits and tax credit receipt provisions to special elections, termination of political committees and political funds, return of public financing money, expenditures by state political parties in support of more than one candidate, application of registration-reporting requirements, contributions-expenditures limitations and expenditure allocation provisions to ballot questions. The board proposes to amend existing economic interest disclosure rules (9 MCAR §§ 1.0100-1.0111) pertaining to the assessment and waiver of late filing fees, and filing deadlines. The board proposes to amend existing lobbyist rules (9 MCAR §§ 1.0200-1.0209) pertaining to filing requirements and the assessment and waiver of late filing fees. The board proposes to amend existing conflict of interest rules (EC 300-307) pertaining to filing requirements and deadlines, identification of the immediate superior of public officials, and to remove the definition of public official. The board proposes to amend existing representation disclosure rules (EC 500-507) pertaining to filing requirements, the assessment and waiver of late filing fees, and to remove the definition of public official. The board proposes to amend existing hearings rules (EC 601-623) by updating and incorporating references to contested case procedures, identifying those matters which are contested cases, establishing procedures and requirements for submission, consideration, and disposition of complaints under the Ethics in Government Act, Minn. Stat. ch. 10A, and establishment of procedures for meetings related to investigations and audits. The board proposes to repeal rules 9 MCAR § 1.0013 and EC 603. The proposed amendments are intended to reflect legislative changes in Minn. Stat. ch. 10A, to remove obsolete provisions and language, and to incorporate applicable advisory opinions which have been rendered by the board.

Text and references to rules as proposed were originally published as rules to be adopted after a hearing in the *State Register* on Monday, December 7, 1981, pages 1075-1084 (6 S.R. 1975-1084).

## **Minnesota Pollution Control Agency**

### **Proposed Rules Governing Sewage Sludge Management (6 MCAR § 4.6101, 6 MCAR § 4.6102, 6 MCAR § 4.6103, 6 MCAR § 4.6104, 6 MCAR § 4.6105, 6 MCAR § 4.6106, 6 MCAR § 4.6107, 6 MCAR § 4.6108, 6 MCAR § 4.6111, 6 MCAR § 4.6112, 6 MCAR § 4.6121, 6 MCAR § 4.6122, 6 MCAR § 4.6131, 6 MCAR § 4.6132, 6 MCAR § 4.6133, 6 MCAR § 4.6134, 6 MCAR § 4.6135, 6 MCAR § 4.6136)**

#### **Notice of Intent to Adopt Rules without a Public Hearing**

Notice is hereby given that the Minnesota Pollution Control Agency proposes to adopt the above entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes § 15.0412, subd. 4h.

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 § 15.0412, subd. 4-4f. The agency asks that requests for a public hearing identify the particular objection and suggest appropriate modifications to the proposed rules and the reasons or data relied on to support the suggested modification.

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

Rodney E. Massey, P.E.  
Chief, Program Development and Facility Review Section  
Minnesota Pollution Control Agency  
1935 West County Road B2  
Roseville, Minnesota 55113  
(612) 297-2713

**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

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Authority for the adoption of these rules is contained in Minnesota Statutes § 116.07, subd. 4. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules, has been prepared and is available upon request. It is also available for review in the Minnesota Pollution Control Agency office in Roseville and in each of the Minnesota Pollution Control Agency regional offices:

Duluth Regional Office  
314 West Superior Street  
1015 Torrey Building  
(218) 723-4660

Brainerd Regional Office  
304 East River Road  
Suite 3  
(218) 828-2492

Detroit Lakes Regional Office  
116 East Front Street  
(218) 847-2164

Marshall Regional Office  
Box 286  
1104 East College Drive  
(507) 537-7146

Rochester Regional Office  
1200 South Broadway  
Suite 140  
(507) 285-7343

The agency has estimated the total cost to local public bodies to implement the proposed rules in either of the first two years following their adoption would be approximately \$186,000. This estimate includes \$117,500 in annual costs and \$68,500 in initial costs.

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 should submit a written statement of such request to Mr. Massey.

The purpose of the proposed rules is to provide for the protection of the public health and the environment in the utilization or disposal of sewage sludge. The proposed rules establish standards for the design, location and operation of sewage sludge landspreading sites and facilities. The proposed rules also establish permit and letter of approval requirements for landspreading sites and facilities. In addition, the proposed rules provide methods for collection and analysis of sewage sludge samples, soil samples, vegetative tissue samples, and ground water samples; establish methods for sewage sludge application rates based on crop nitrogen requirements and, establish pathogen reduction processes. The persons regulated by the proposed rule include political subdivisions that landspread sewage sludge, persons who own, lease or rent landspreading facilities, and persons who are under contract to landspread sewage sludge or to operate a landspreading facility.

Copies of this notice and the proposed rules are available for review in the Minnesota Pollution Control Agency office in Roseville and at each of the Minnesota Pollution Control Agency regional offices and may be obtained by contacting Mr. Massey.

December 14, 1981

Louis J. Breimhurst, Executive Director  
Minnesota Pollution Control Agency

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**Chapter Five: General Provisions**

6 MCAR § 4.6101 **Purpose and scope.** The purpose of 6 MCAR §§ 4.6101-4.6136 is to provide for the protection of the public health and the environment in the utilization or disposal of sewage sludge. In accordance with the authority granted in Minn. Stat. § 116.07, subd. 4, these rules establish standards for the design, location, and operation of sewage sludge landspreading sites and facilities.

6 MCAR § 4.6102 **Permit and letter of approval requirements.**

**A. Landspreading.**

1. The following persons shall comply with the requirements of 6 MCAR §§ 4.6101-4.6136:
  - a. political subdivisions that landspread sewage sludge;
  - b. persons who own, lease, or rent landspreading facilities; and
  - c. persons who are under contract to a. or b. to landspread sewage sludge or to operate a landspreading facility.
2. The persons identified in 1. shall apply for, and be copermittees of, a state disposal system permit for landspreading facilities.
3. Political subdivisions shall apply for a letter of approval for landspreading sites.
4. Each existing and proposed landspreading site shall have a letter of approval at the time given in Exhibit 6 MCAR § 4.6102 A.4.-1, unless it possesses a current letter of approval. Each existing landspreading facility shall have a state disposal system permit at the time given in Exhibit 6 MCAR § 4.6102 A.4.-1, unless it possesses a current permit. Each proposed landspreading facility shall have a state disposal system permit prior to development and use.

**Exhibit 6 MCAR § 4.6102 A.4.-1**

**Schedule for Obtaining Letter of Approval or Permit**

Wastewater Treatment System Design Flow in Million Gallons/Day		Months After Rule Effective Date
More than 20	Sites	0
	Facilities	3
1-20	Sites	6
	Facilities	12
Fewer than 1	Sites	12
	Facilities	12

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B. Incineration. Incineration of sewage sludge is governed by rule APC 28 of the Minnesota Pollution Control Agency.

C. Other facilities. Any facility for the processing, storage, or disposal of sewage sludge into or on any land by means other than regulated by 6 MCAR §§ 4.6101-4.6136 is prohibited without an agency permit.

6 MCAR § 4.6103 Definitions. For the purpose of 6 MCAR §§ 4.6101-4.6136, the following terms have the meanings given them.

A. Agency. "Agency" means the Minnesota Pollution Control Agency.

B. Animal feed. "Animal feed" means any crop grown for consumption by animals, such as pasture crops, forage, and grain.

C. Aquifer. "Aquifer" means a water-bearing soil horizon or bedrock formation that transmits water in sufficient quantities to supply a well.

D. Available nitrogen. "Available nitrogen" means nitrogen which is present in inorganic forms that are useable by plants, and which may be determined by procedures set out in 6 MCAR § 6.6135.

E. Available water-holding capacity. "Available water-holding capacity" means the capacity of soil to hold water against the force of gravity and available for use by most plants. It is usually expressed in inches of water per inch of soil. It may be found in Soil Conservation Service soil surveys or Soil Conservation Service soil interpretation sheets, or it may be obtained in the laboratory using the method provided in 6 MCAR § 4.6132 B.3.

F. Bedrock outcrop. "Bedrock outcrop" means any bedrock that appears at the surface of the land.

G. Cation exchange capacity. "Cation exchange capacity" means a measure of the potential quantity of readily exchangeable positive ions that the soil can attract and retain, expressed in milliequivalents per 100 grams of soil. Rule 6 MCAR § 4.6132 B.2. provides acceptable methods of determining cation exchange capacity.

H. Cave. "Cave" means any naturally formed, subterranean open area or chamber, or series of chambers.

I. Crops for direct human consumption. "Crops for direct human consumption" means crops that are consumed by humans without processing to minimize pathogens prior to distribution to the consumer.

J. Dewatered sewage sludge. "Dewatered sewage sludge" means any sewage sludge with a total solids content of 20 percent or greater or which can be transported and handled as a solid material.

K. Director. "Director" means the executive director or other designated representative of the Minnesota Pollution Control Agency.

L. Fallow land. "Fallow land" means land that is uncropped and kept cultivated throughout a growing season. Vegetative cover is less than 25 percent. Any land that is uncropped and cultivated during the months of September through May where a crop will be grown the following growing season is not considered fallow land.

M. Food-chain crops. "Food-chain crops" means tobacco, crops grown for human consumption, and feed for animals whose products are consumed by humans.

N. Hundred-year floodplain. "Hundred-year floodplain," as defined in 6 MCAR § 4.8051 for floodplain, means any area adjoining a watercourse which has been or hereafter may be covered by a large flood known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

O. Immediate incorporation. "Immediate incorporation" means the mixing of sewage sludge with topsoil, concurrent with application or within 48 hours thereafter, by means such as injection, discing, mold-board plowing, chisel plowing or rototilling to a minimum depth of six inches.

P. Intermittent stream. "Intermittent stream" means any stream which flows at certain times during the year, such as after a rainstorm or during wet weather. Intermittent streams receive water from surface runoff, springs, or melting snow and have definable banks. Any intermittent stream mapped on Soil Conservation Service soil surveys or United States Geological Survey quadrangle maps may be included within this definition. All Class 7 limited resource value waters listed in Supplement 1 of 6 MCAR §§ 4.8024 and 4.8025 are included within this definition.

Q. Lakes and ponds. "Lakes and ponds" means any water basins defined as water basins and public waters in Minn. Stat. § 105.37, subs. 9 and 14 respectively.

R. Landspreading. "Landspreading" means placement of sewage sludge on or incorporated into the soil surface.

S. Landspreading facility. "Landspreading facility" means any land that is used for sewage sludge landspreading and is owned, leased, or rented by the political subdivision generating the sewage sludge.

T. Landspreading site. "Landspreading site" means any land used for sewage sludge landspreading that is not owned, leased, or rented by the political subdivision generating the sewage sludge.

U. Long-term storage. "Long-term storage" means the storage of dewatered sewage sludge for a period of greater than one month but not exceeding seven months at a landspreading site not located at the place of sewage sludge generation.

V. Mine. "Mine" means any excavation for minerals.

W. Organic priority pollutant. "Organic priority pollutant" means the organic compounds that appear in 40 Code of Federal Regulations, Section 401.15 (1981).

X. Pasture crops. "Pasture crops" means crops such as legumes, grasses, grain stubble, and stover which are consumed by animals while grazing.

Y. Pathogens. "Pathogens" means organisms that are capable of producing an infection or disease in a susceptible host.

Z. Person. "Person," as defined in Minn. Stat. § 116.06, subd. 8, means any human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity, but does not include the Minnesota Pollution Control Agency.

AA. Place of habitation. "Place of habitation" means any house, apartment, mobile home, dwelling, residence, or other structure, occupied or intended to be occupied on a day to day basis by an individual, group of individuals, family unit, or group of family units.

BB. Political subdivision. "Political subdivision" as defined in Minn. Stat. § 115A.03, subd. 24, means any municipal, corporation, governmental subdivision of the state, local government unit, special district, or local or regional board, commission, or authority authorized by law to plan or provide for waste management.

CC. Process to further reduce pathogens. "Process to further reduce pathogens" means high temperature composting, heat drying, heat treatment, thermophilic aerobic digestion, or other methods which will achieve similar levels of pathogen reduction. These methods are described in 6 MCAR § 4.6136.

DD. Process to significantly reduce pathogens. "Process to significantly reduce pathogens" means aerobic digestion, air drying, anaerobic digestion, low temperature composting, lime stabilization, or other methods which achieve similar levels of pathogen reduction. These methods are described in 6 MCAR § 4.6136.

EE. Putrescible sewage sludge. "Putrescible sewage sludge" means any sewage sludge that has a volatile solids content of 70 percent or more of the total solids content.

FF. Quarry. "Quarry" means any surficial mine used for the purpose of obtaining building stone, limestone, gravel, or sand.

GG. Recreational area. "Recreational area" means any public park, trail, campground, playground, athletic field, picnic ground, botanical or zoological garden, swimming beach or pool, fairground, or wayside and any commercial campground, resort, tourist court, amusement park, riding stable, or golf course.

HH. Residential development. "Residential development" means ten or more places of habitation concentrated within ten acres of land. The term also includes schools, churches, hospitals, nursing homes, businesses, offices, and apartment buildings or complexes having ten or more living units.

II. Rivers and streams. "Rivers and streams" means any watercourses defined as natural watercourses or altered natural watercourses and public waters in Minn. Stat. § 105.37, subs. 10, 11, and 14 respectively.

JJ. Road right-of-way. "Road right-of-way" means any interstate, United States, state, county or township highway or road including any shoulder and drainage ditch alongside the road.

KK. Root crops. "Root crops" means plants whose edible parts are grown below the soil surface.

LL. Seasonal high water table. "Seasonal high water table" means the highest level the water table reaches during a given year. Methods of determining the seasonal high water table are given in 6 MCAR § 4.6132 B.5.

MM. Sewage sludge. "Sewage sludge," as defined in Minn. Stat. § 115A.03, subd. 29, means the solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment plant. Sewage sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment.

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NN. Sewage sludge solids. "Sewage sludge solids" means the total solids remaining in sewage sludge after oven drying at 105 degrees Centigrade.

OO. Short-term storage. "Short-term storage" means the storage of dewatered sewage sludge for a period of less than one month at a landspreading site not located at the place of sewage sludge generation.

PP. Sinkhole. "Sinkhole" means a closed depression in an area of Karst topography that is formed either by solution of surficial limestone or by collapse of underlying caves.

QQ. Soil Conservation Service. "Soil Conservation Service" means the Soil Conservation Service of the United States Department of Agriculture.

RR. Soil horizon. "Soil horizon" means a layer of soil that is approximately parallel to the soil surface and has some set of properties that have been produced by soil-forming processes, and has some properties that are not like those of the layers above and beneath it. These properties include color, structure, texture, consistence, and bulk density.

SS. Soil pH. "Soil pH" means the soil's hydrogen-ion activity or the negative logarithm of the hydrogen-ion concentration. It is a measure of the acidity of soil. A soil pH value of 7.0 is neutral. The value is obtained by methods provided in 6 MCAR § 4.6132 B.1.

TT. Soil texture. "Soil texture" means the relative portion of the soil separates sand, silt, and clay. It can be measured using methods addressed in 6 MCAR § 4.6132 B.1. Coarse texture is United States Department of Agriculture textural classifications sand and loamy sand. Medium texture is United States Department of Agriculture classifications sandy loam, loam, silt, silt loam, and sandy clay loam. Fine texture is United States Department of Agriculture classifications clay loam, silty clay loam, sandy clay, silty clay, and clay.

UU. Soil type. "Soil type" means a soil body having the same profile characteristics and morphology. It is the lowest unit in the natural system of soil classification.

VV. Spray application. "Spray application" means liquid sewage sludge application by sprinkling devices such as center pivots and stationary or movable spray irrigation mechanisms.

WW. Spring. "Spring" means any natural surface discharge of ground water large enough to flow in a small rivulet.

XX. Surface application. "Surface application" means sewage sludge spread on the surface of the land and not incorporated into the soil within 48 hours of application.

YY. Surface water. "Surface water" means any lake or pond, and any river or stream as defined in Q. and II., respectively.

ZZ. Ten-year floodplain. "Ten-year floodplain" means the lowland and relatively flat areas adjoining surface waters which are inundated by a flood which can be expected to occur, on an average, of once in ten years; or the land area to which flood waters have a ten percent chance of inundating in any given year.

AAA. Water table. "Water table" means the surface of the ground water at which the pressure is atmospheric. Generally this is the top of the saturated zone.

BBB. Wetland. "Wetland" means a natural marsh where water stands near, at, or above the soil surface during a significant portion of most years, which is eligible for classification as inland fresh water wetland type 3, 4 or 5 under United States Department of Interior classification, defined in United States Fish and Wildlife Circular No. 39 (1971 edition), not included within the definition of public waters as defined in Minn. Stat. § 105.37, subd. 14, and which is ten or more acres in size in unincorporated areas or 2.5 acres or more in incorporated areas.

**6 MCAR § 4.6104 Variance.** Any person may apply for a variance from any requirement of 6 MCAR §§ 4.6101-4.6136. Variances shall be applied for and acted upon by the agency in accordance with Minn. Stat. § 116.07, subd. 5 and other applicable statutes and rules.

**6 MCAR § 4.6105 Application requirements for landspreading sites.** Applications for letters of approval for sewage sludge landspreading sites shall include the specific information given in A.-E. Submittal of this information shall be made using a form obtained from the director.

A. Sewage sludge characterization. Applications shall contain sewage sludge characterization.

1. This shall include a description of the process to significantly reduce pathogens or process to further reduce pathogens used to treat the sewage sludge, including temperatures, retention times, volatile solids reduction, and chemical doses, if applicable.

2. Sewage sludge chemical characteristics shall be determined from either a single composite sample taken within six months of application submittal or the average of analyses from any number of samples taken within one year of application submittal. Sewage sludge shall be analyzed for parameters listed in 6 MCAR § 4.6111 A.5. The dates of sampling and analysis shall be included with the analysis.

**B. Site characterization. Applications shall contain site characterization.**

1. This shall include a copy of Soil Conservation Service soil survey maps or comparable soil maps prepared by a soil scientist with mapping experience, delineating the boundaries of the specific sewage sludge landspreading and short-term or long-term storage areas. Information included with the soil survey maps or obtained from actual on-site investigations shall include the following items for each soil type present at the landspreading site:

- a. texture and thickness of each soil horizon to 60 inches of depth;
- b. permeability of each soil horizon to 60 inches of depth;
- c. available water-holding capacity of each soil horizon to 60 inches in depth;
- d. soil depth required to obtain six inches of available water-holding capacity;
- e. depth to seasonal high water table;
- f. depth to bedrock; and
- g. slope of land surface.

2. It shall include a copy of a United States Geological Service quadrangle map or aerial photo which shows the location of and distance to each of the following features, if within one-quarter mile of the landspreading site:

- a. lakes and ponds;
- b. rivers and streams;
- c. wetlands;
- d. intermittent streams;
- e. ten-year flood plains;
- f. sinkholes, caves, bedrock outcrops, mines, or quarries;
- g. potable water supply wells;
- h. places of habitation;
- i. recreational areas;
- j. residential developments;
- k. road right-of-ways; and
- l. airports.

3. It shall include a legal description of the landspreading site, including township, range, section, quarter section, township or city name, and county.

4. It shall include the approximate quantity of sewage sludge solids previously applied to the landspreading site.

5. Required sampling and analytical procedures of soil characteristics listed in a. to g. are provided in 6 MCAR § 4.6132. Applications shall contain the following soil characteristics which shall be determined from samples obtained within six months of application submittal:

- a. United States Department of Agricultural textural classification;
- b. percentage of organic matter;
- c. extractable phosphorus in pounds per acre;
- d. exchangeable potassium in pounds per acre;
- e. pH;
- f. soluble salts expressed in millimhos per centimeter; and
- g. cation exchange capacity expressed in milliequivalents per 100 grams.

6. Site characterization shall include the acreage of the landspreading site.

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7. It shall include the name and address of landowner.
  8. It shall also include the name and address of any renter, leasee, or occupier of the landspreading site.
- C. Site management. Applications shall include site management. This includes the following:
1. a description of the proposed method or methods of sewage sludge application;
  2. the name and address of the person who will apply sewage sludge to the proposed landspreading site;
  3. the maximum annual application rate, in tons of sewage sludge solids per acre per year, based on nitrogen or cadmium additions, whichever is limiting;
  4. the estimated maximum sewage sludge loading rate over the life of the site, in tons of sewage sludge solids per acre, based on cumulative heavy metal limits, current sewage sludge analysis, and past heavy metal applications;
  5. a description of the crop to be grown or dominant vegetation at the site and intended use of the crop;
  6. a description of how public access to the site is proposed to be controlled; and
  7. months and approximate dates when sewage sludge will be landspread.
- D. Provisions for long-term sewage sludge storage at the site. Applications shall include the following provisions for long-term sewage sludge storage at the site:
1. A description of the necessity for storage at the landspreading site.
  2. The location of the storage area delineated on maps submitted pursuant to B.1. and B.2.
  3. A description of how sewage sludge is to be stored.
  4. The acreage of the sewage sludge storage area.
  5. The quantity of sewage sludge to be stored.
  6. Boring logs from at least two soil borings to a depth of ten feet taken at the perimeter of the proposed storage area. The boring logs shall include:
    - a. texture and thickness of each soil horizon encountered;
    - b. color and presence or absence of mottling for each soil horizon encountered;
    - c. depth to water table, if encountered; and
    - d. depth to bedrock, if encountered.
  7. The soil depth required to obtain eight inches of available water-holding capacity.
  8. The expected duration and dates of storage before landspreading.
  9. The description of precaution or practices to minimize or prevent leachate, runoff, or nuisance conditions from the storage area. If the long-term storage site is to be at the same location for each year the landspreading site is used, an evaluation of the necessity for an impervious pad shall be included.
- E. Public notification. Applications shall include evidence that the applicable county and local officials have been notified that application is being made to the agency for approval of the proposed landspreading site and operation.
- 6 MCAR § 4.6106 Application requirements for landspreading facilities.** Applications for state disposal system permits for sewage sludge landspreading facilities shall include the information required by A.-D.
- A. Information required for letters of approval. The application shall contain all information required in 6 MCAR § 4.6105 A., B., and C. for letters of approval for landspreading sites.
- B. Ground water quality. Applications shall contain present ground water quality for the following parameters:
1. pH;
  2. electrical conductivity expressed in millimhos per centimeter;
  3. total hardness expressed in milligrams per liter as CaCO<sub>3</sub>;
  4. alkalinity expressed in milligrams per liter as CaCO<sub>3</sub>;
  5. chlorides expressed in milligrams per liter;
  6. sulfates expressed in milligrams per liter;
  7. total organic carbon expressed in milligrams per liter;
  8. nitrate-nitrogen expressed in milligrams per liter;

9. total phosphorus expressed in milligrams per liter;
10. methylene blue active substances expressed in milligrams per liter;
11. total dissolved solids expressed in milligrams per liter; and
12. total coliform bacteria expressed in organisms per 100 milliliters.

The ground water to be sampled and analyzed shall be from the first aquifer below the proposed landspreading facility that is being used or may be used for drinking water purposes. Analytical methods for these parameters may be found in 6 MCAR § 4.6134.

C. Ground water monitoring wells and soil water sampling devices. Applications shall contain a description of all ground water monitoring wells and soil water sampling devices installed at the facility, including:

1. location on required soil map;
2. elevation of ground water surface, depth of boring and well, well seals, and screened interval; and
3. description of well construction materials such as casing, well seal, grouting and packing.

D. Sewage sludge storage facility and operation. Applications shall contain a description of the sewage sludge storage facility and operation, including:

1. facility type and capacity;
2. frequency of sewage sludge addition to and removal from the storage facility; and
3. description and permeability of storage pond liner or storage pad base, whichever is applicable.

E. Additional information. The information in 1.-3. shall be submitted in addition to that required in A.-D. if the applicant or permittee proposes to apply available nitrogen in excess of that stipulated in 6 MCAR § 4.6121 A.2.e., cadmium in excess of two pounds per acre per year, or metals in excess of levels stipulated in Exhibits 6 MCAR § 4.6121 D.2.f.-1. or D.2.g.-2. The information in 4., 5., 6., or 7., whichever is applicable, shall be submitted in addition to that required in A.-D. if the applicant or permittee proposes not to comply with one or more of the minimum design requirements in 6 MCAR § 4.6121.

1. An application shall contain a characterization of hydrogeological conditions at and within one mile from the landspreading facility, including:

- a. type of and depth to bedrock;
- b. bedrock condition, such as fractures, faults, and channels;
- c. texture of unconsolidated material above bedrock;
- d. depth to hydrostatic ground water table;
- e. direction of ground water flow and rate of movement;
- f. ground water recharge and discharge areas;
- g. available well boring logs for any public or private, potable or non-potable water supply wells;
- h. present ground water quality and use; and
- i. suitability of ground water for future use.

This information may be obtained from available well boring data, United States Geological Survey hydrogeologic atlases, other hydrogeological studies in the area, or by actual on-site investigations.

2. The application shall contain a description of soil characteristics to a minimum depth of 25 feet. The minimum number of borings required can be determined using the following formula:

$$\text{Number of borings} = (\text{landspreading acreage} \times 0.1) + 3.$$

The information given for each boring shall include:

- a. location and depth of boring;
- b. soil classification using the Unified system for each soil horizon encountered;

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- c. color and presence or absence of mottling for each soil horizon encountered; and
- d. water level measurement.

3. Utilizing the information in 1. and 2., the application shall contain an evaluation of the potential for impacting aquifer quality based on proposed facility management practices.

4. It shall contain a description and evaluation of the provisions, practices, and site features that will be utilized to comply with 6 MCAR § 4.6121 A.1. if one or more of the minimum design requirements in 6 MCAR § 4.6121 A.2. cannot be accomplished.

5. It shall contain a description and evaluation of the provisions, practices, and site features that will be utilized to comply with 6 MCAR § 4.6121 B.1. if one or more of the minimum design requirements in 6 MCAR § 4.6121 B.2. cannot be accomplished.

6. It shall contain a description and evaluation of the provisions, practices, and site features that will be utilized to comply with 6 MCAR § 4.6121 C.1. if one or more of the minimum design requirements in 6 MCAR § 4.6121 C.2. cannot be accomplished.

7. It shall also contain a description and evaluation of the provisions, practices and site features that will be utilized to comply with 6 MCAR § 4.6121 D.1. if one or more of the minimum design requirements in 6 MCAR § 4.6121 D.2. cannot be accomplished.

### 6 MCAR § 4.6107 Administration of letters of approval.

A. Review. All applications shall be reviewed for completeness by the director. If the application is incomplete, the director shall promptly advise the applicant of the incompleteness. Further processing of the application may be suspended until the applicant has supplied the necessary information.

B. Preparation of preliminary determinations. The director shall make a preliminary determination regarding a completed application. This preliminary determination shall include a proposed determination to issue or to deny the approval sought in the application.

1. If the preliminary determination is to deny an approval, the director shall notify the applicant in writing and include the specific reasons for denial. The applicant may request an appearance before the agency to appeal the denial pursuant to agency rules of procedure, rule MPCA 3 of the Minnesota Pollution Control Agency.

2. If the preliminary determination is to issue an approval, the procedures set out in C. and D. shall apply.

#### C. Public participation.

1. The director shall provide notice of the application and a copy of the draft letter of approval to the following persons: the applicant; the owner and occupier of land proposed to be used for sewage sludge landspreading; the city or township and county officials of the area where a sewage sludge landspreading site is located; and other persons known by the director to have an interest in the proposed approval.

2. Any interested person, including the applicant, may, within 14 days following the date of issuance of the notice, submit written comments on the application and the proposed approval to the director.

3. All written comments submitted during the comment period shall be retained and considered in the formulation of final determinations concerning the application.

#### D. Final determination.

1. The director shall attempt to resolve all comments prior to a final determination concerning the application. If such comments have been resolved, the director shall issue or deny the approval.

2. If all comments cannot be resolved, the application shall be presented to the agency, which shall issue or deny the approval. A public hearing may be requested in accordance with rule WPC 36(k) of the Minnesota Pollution Control Agency.

3. All persons submitting comments on the application and the proposed approval shall be notified of the final determination concerning the application.

#### E. Denial of approval.

1. Approval shall be denied if the proposed site does not comply with this rule and other applicable state or federal laws or rules; or approval is likely to cause pollution, impairment or destruction of the air, water, land or other natural resources of the state and there is a feasible and prudent alternative.

2. Notice of denial and reasons for the denial shall be issued to the persons listed in C.1.



F. Modification, suspension, and revocation of letters of approval. A letter of approval may be modified, suspended, or revoked in accordance with the requirements of rule WPC 36(s) of the Minnesota Pollution Control Agency.

G. Duration of approvals. The letter of approval shall have a duration of one to five years. The term of approval shall be based upon the request of the applicant and a determination of the suitability of the landspreading site and operation for compliance with 6 MCAR §§ 4.6101-4.6136 for the duration of the requested approval period.

H. Enforcement. A letter of approval issued to a political subdivision pursuant to this rule shall become part of the political subdivision's national pollutant discharge elimination system or state disposal system permit and shall be enforceable to the same extent as the permit.

**6 MCAR § 4.6108 Administration of state disposal system permits.** The administration of state disposal system permits for landspreading facilities shall be governed by rule WPC 36 of the Minnesota Pollution Control Agency.

**Chapter Six: Landspreading Sites**

**6 MCAR § 4.6111 Requirements and limitations.** The following requirements and limitations apply to the management of landspreading sites.

A. Sewage sludge sampling and analysis.

1. Sewage sludge samples shall be representative of the sewage sludge to be landspread.

2. In the case of digesters and liquid storage tanks, a representative sample shall be composed of at least four grab samples composited over a 24-hour period prior to landspreading.

3. In the case of lagoons, stockpiles, drying beds, and compost piles, a representative sample shall be composed of at least ten grab samples composited from the sewage sludge prior to landspreading.

4. Other recommended sampling and handling procedures are provided in 6 MCAR § 4.6131.

5. Sewage sludge shall be analyzed according to methods set forth in 6 MCAR § 4.6131 for the following parameters:

a. percentage of total solids;

b. volatile solids as percentage of total solids;

c. pH;

d. nitrogen, including the percentages of kjeldahl, ammonia and, in the case of aerobically digested and composted sewage sludges only, nitrate;

e. total weight of heavy metals, including milligrams per kilogram of zinc, copper, lead, nickel, cadmium, chromium and mercury; and

f. polychlorinated biphenyls expressed as milligrams per kilogram.

All analytical values, except pH and total solids, shall be recorded on a dry weight basis.

6. The minimum frequency of sewage sludge sampling and analysis is given in Exhibit 6 MCAR § 4.6111 A.6.-1.

**Exhibit 6 MCAR § 4.6111 A.6.-1**

**Minimum Frequency of Sewage Sludge Sampling and Analysis**

<b>Wastewater Treatment System Design Flow in Million Gallons/Day</b>	<b>Minimum Frequency</b>
<b>Less than 1.0</b>	<b>annually</b>
<b>1.0-20</b>	<b>semi-annually</b>
<b>More than 20</b>	<b>quarterly</b>

7. Each parameter exceeding concentrations listed in Exhibit 6 MCAR § 4.6111 A.7.-2 shall be analyzed for at two or three times the minimum frequency given in Exhibit 6 MCAR § 4.6111 A.6.-1.

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## Exhibit 6 MCAR § 4.6111 A.7.-2

### Greater Frequency of Sewage Sludge Sampling and Analysis

Concentration Expressed in Milligrams/  
Kilogram of Dry Weight

Parameter	2x Frequency	3x Frequency
Zinc	1800	3600
Copper	900	1800
Lead	500	1000
Nickel	100	200
Cadmium	20	40
Chromium	1000	2000
Mercury	5	10
Polychlorinated biphenyls	5	10

8. Frequency of sewage sludge sampling and analysis may be reduced by the director depending on the annual frequency of landspreading and the variability of sewage sludge quality.

#### B. Pathogen control.

1. Sewage sludge, at a minimum, shall be treated by a process to significantly reduce pathogens prior to landspreading.

2. Sewage sludge shall be treated by a process to further reduce pathogens if crops for direct human consumption are to be grown within 18 months of sewage sludge application, unless there is no contact between the sewage sludge and the edible portion of the crop.

3. Sewage sludge shall only be applied to pasture or forage crops when foliage is minimal unless the sewage sludge is injected. Surface application during the growing season shall only be permitted within seven days following a cutting.

4. If sewage sludge is to be applied to land used for pasturing livestock or for growing forage crops, the pasturing or harvesting of the crop shall not be permitted for at least one month following the last sewage sludge application unless the sewage sludge was treated by a process to further reduce pathogens.

5. Public access to a landspreading site shall be controlled during and for a period of 12 months following sewage sludge application unless the sewage sludge was treated by a process to further reduce pathogens. Fencing or posting of appropriate signs is required if the site is likely to be frequented by the general public. If the site is remote, or used for agricultural purposes, fencing and posting are not required if inadvertant public contact is deemed unlikely.

#### C. Soil pH and cadmium application.

1. For landspreading sites where food-chain crops will be grown, the pH of the soil and sewage sludge mixture shall be 6.5 or greater during the growing season following sewage sludge application.

2. Annual cadmium application shall not be more than one-half pound per acre on the land used for the production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food-chain crops, the annual cadmium application shall not exceed two pounds per acre.

3. Cumulative cadmium application to any landspreading site shall not exceed the levels provided in Exhibit 6 MCAR § 4.6111 C.3.-3.

## Exhibit 6 MCAR § 4.6111 C.3.-3.

### Maximum Cumulative Cadmium Application

Soil Cation Exchange Capacity (milliequivalents/100 grams)	Maximum Cumulative Cadmium Application (pounds/acre)
Less than 5	5
5-15	10
More than 15	20

D. Cumulative heavy metal additions. Sewage sludge application shall be terminated when the sum addition of any one heavy metal equals the level in Exhibit 6 MCAR § 4.6111 D.-4 for that particular heavy metal and soil.

**Exhibit 6 MCAR § 4.6111 D.-4.**

**Maximum Cumulative Heavy Metal Addition**

Soil Cation Exchange Capacity (milliequivalents/100 grams)	Maximum Cumulative Heavy Metal Addition (pounds/acre)			
	Lead	Zinc	Copper	Nickel
Less than 5	500	250	125	50
5-15	1000	500	250	100
More than 15	2000	1000	500	200

**E. Sewage sludge application rates.**

1. Sewage sludge application rates, combined with other known nitrogen sources, shall supply no more nitrogen than the amount required by the vegetation to be grown at the site. The rate of sewage sludge application shall be determined using the method outlined in 6 MCAR § 4.6135.

2. Sewage sludge application to a site shall be suspended whenever the soil extractable phosphorus content exceeds 400 pounds per acre.

3. Sewage sludge application to a site shall be suspended whenever the electrical conductivity of the saturation extract of soil exceeds four millimhos per centimeter as determined by the soluble salt test.

4. Sewage sludge shall not be applied to fallow land unless the following provisions are met: the soil surface has a medium or fine texture; the average annual precipitation is no greater than 24 inches; the addition of available nitrogen does not exceed 50 pounds per acre on medium-textured soil and 75 pounds per acre on fine-textured soil; and a crop is grown the year following sewage sludge application. The amount of available nitrogen applied to that crop is reduced by the amount of available nitrogen applied the previous year.

**F. Organic priority pollutant limitations.**

1. Sewage sludge containing concentrations of PCBs equal to or greater than 10 milligrams per kilogram of sewage sludge solids shall be incorporated into the soil when applied to land used for producing food-chain crops.

2. Sewage sludge containing concentrations of PCBs equal to or greater than 50 milligrams per kilogram of sewage sludge solids shall not be landspread.

3. If there is a known source in the sewer system service area which discharges a significant quantity of an organic priority pollutant, the sewage sludge shall be analyzed for that chemical. Concentrations will be considered on a case-by-case basis and recommendations will be made regarding the utilization of that sewage sludge on land.

**G. Suitable soil conditions.**

1. A soil profile shall be of sufficient depth to provide an available water-holding capacity of at least six inches above bedrock or the seasonal high water table. In no case shall this depth be less than three feet. Where sewage sludge is injected into the soil, the six inches of water-holding capacity or the three foot separation distance, whichever is applicable, shall exist between the bottom of the injection zone and the seasonal high water table or bedrock.

2. For the purpose of 1., a perched water condition, in which a zone of saturated soil exists between zones of unsaturated soil in the upper five feet of the soil profile, shall not be considered a seasonal high water table.

3. For the purpose of 1., the depth to subsurface drainage tiles shall be considered the depth to the seasonal high water table for tile drainage systems that are designed according to or equivalent to Soil Conservation Service engineering standards and criteria.

4. If, according to available information such as Soil Conservation Service soil surveys and soil interpretation sheets, the required six inches of available water-holding capacity is not provided in the upper five feet of soil for any given soil type, a boring shall be made to the depth in which six inches of available water-holding capacity would be provided. If indication of a seasonal high water table or bedrock is found before this depth is accomplished, that soil type shall not be used for landspreading.

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5. The soil texture, United States Department of Agriculture classification, at the zone of sewage sludge application shall be one of the following: fine sand; loamy sand; sandy loam; loam; silt loam; silt; sandy clay loam; sandy clay; clay loam; silty clay loam; silty clay; or clay.

6. Liquid sewage sludge shall not be spread on soils with surface permeabilities of less than 0.2 inch per hour unless the sewage sludge is immediately incorporated.

7. Sewage sludge shall not be spread on soils that have permeabilities of greater than six inches per hour throughout the top five feet.

8. Sewage sludge shall not be spread in areas where bedrock containing solution cavities or fractures or cracks exists within six feet of the soil surface.

9. Sewage sludge shall not be spread on areas ponded with water or sewage sludge.

10. Surface application of sewage sludge shall not be allowed on land with a slope greater than six percent. Subsurface application or an immediately incorporated application of sewage sludge shall not be allowed on land with a slope greater than 12 percent.

11. Soil samples shall be collected and analyzed prior to each cropping season that a landspreading site is used. The following parameters shall be determined using collection and analysis procedures provided in 6 MCAR § 4.6132:

- a. United States Department of Agriculture textural classification;
- b. percentage of organic matter content;
- c. extractable phosphorus in pounds per acre;
- d. exchangeable potassium in pounds per acre;
- e. pH; and
- f. soluble salts expressed in millimhos per centimeter.

## H. Separation distances.

1. A distance of at least 200 feet from any place of habitation and a distance of at least 600 feet from any residential development or recreational area shall be maintained, unless written permission is obtained from the appropriate party.

2. A distance of at least 200 feet from any private water supply well and a distance of at least 1,000 feet from any public water supply well shall be maintained. Monitoring and test wells are exempt from this limitation.

3. Separation distances prescribed in 1. may be reduced by one-half if sewage sludge is injected into the soil.

4. Land application of sewage sludge shall be conducted so that sewage sludge is not applied to adjoining property or to road right-of-ways.

5. A distance of at least 200 feet for coarse-textured soils and at least 300 feet for medium and fine-textured soils shall be maintained from any downgradient surface water where sewage sludge is surface applied during the months of May through October. These separation distances shall be doubled where sewage sludge is surface applied during the months of November through April.

6. The minimum distances in Exhibit 6 MCAR § 4.6111 H.6.-5. from any downgradient surface water shall be maintained where sewage sludge is immediately incorporated into the soil.

### Exhibit 6 MCAR § 4.6111 H.6.-5.

#### Minimum Distances From Downgradient Surface Water

Land Slope	Separation (feet)
Less than 2 percent	25
2-6 percent	50
6-12 percent	100

7. A 100 foot separation distance from intermittent streams shall be maintained when applying sewage sludge unless one or more of the following conditions exist, in which case the separation distance shall be at least 25 feet:

- a. the sewage sludge is immediately incorporated;
- b. the sewage sludge is surface applied and the intermittent stream does not discharge to any surface water; or
- c. the sewage sludge is surface applied and the intermittent stream discharges to a surface water that is more than one mile downstream.

**I. Short-term dewatered sewage sludge storage.**

1. Sewage sludge in short-term storage shall be spread as soon as conditions permit. In no case shall the short-term storage of sewage sludge be in excess of 30 days. It is advisable that the short-term storage site be relocated each year the landspreading site is used.

2. Separation distances for short-term sewage sludge storage areas shall be those provided in H. for landspreading sites except that short-term storage of sewage sludge shall not be within 100 feet of any adjoining property without the written permission of the owner or within 100 feet of any road right-of-way.

3. Short-term storage of sewage sludge shall not take place on land with a slope greater than two percent unless measures are taken to control water runoff or the sewage sludge is being spread concurrent with the unloading of sewage sludge delivery trucks.

4. The suitable soil conditions for short-term storage of sewage sludge shall be the same as those for landspreading sites in G.

**J. Long-term dewatered sewage sludge storage.**

1. Long-term storage of sewage sludge shall only be allowed at landspreading sites where the stored sewage sludge is to be applied. Long-term storage at one landspreading site of sewage sludge that is intended for application at several landspreading sites is allowed provided that all sites are owned by the same person and all sites are within a one-half mile radius.

2. Long-term storage of sewage sludge for landspreading areas of 40 acres or less shall not take place within 400 feet from any place of habitation. This separation distance shall increase 100 feet for every additional ten acres of landspreading area, or portion thereof, up to a maximum of 1,000 feet. Separation distances may be reduced if written permission is obtained from the appropriate party.

3. Long-term storage of sewage sludge shall not take place within 1,000 feet of any residential development or recreational area.

4. Long-term storage of sewage sludge shall not take place within 1,000 feet of any downgradient surface waters or ten-year floodplain, unless measures are taken to control runoff in which case the separation distance may be reduced to 200 feet.

5. Long-term storage of sewage sludge shall not be allowed on land with greater than two percent slope unless measures are taken to control runoff; in which case the maximum land slope may be increased to six percent.

6. Long-term sewage sludge storage areas shall not be located in areas where the soil profile has less than eight inches of available water-holding capacity between the soil surface and the seasonal high water table and bedrock.

7. Long-term sewage sludge storage shall not take place in areas where the soil permeability is greater than six inches per hour throughout the top five feet of soil.

8. Long-term sewage sludge storage shall not take place in the same area for two or more consecutive years.

9. Conditions set forth in 6., 7., and 8. are not required if measures are taken to control leachate generation from the area of long-term sewage sludge storage.

**K. Prohibited sites and other limitations.**

1. Sewage sludge shall not be disposed of on or into any cave, sinkhole, or wetland. Except as part of a reclamation project, sewage sludge shall not be disposed of in or on any mine or quarry.

2. Sewage sludge shall not be applied on any land without the permission of the owner.

3. Organic soils or peat shall not be utilized for sewage sludge application unless subsurface drainage is provided by a system designed according to or equivalent to Soil Conservation Service engineering criteria.

4. Daily surface applications of liquid sewage sludge shall not exceed the following: for coarse-textured soil, 25,000 gallons per acre; for medium-textured soil, 15,000 gallons per acre; or for fine-textured soil, 10,000 gallons per acre.

5. Sewage sludge shall be applied to land in such a manner as to provide uniform spreading or application over the entire site.

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6. The boundary of a landspreading site shall be identified prior to and during application with the use of conspicuous flags placed every 100 feet along the border unless apparent boundaries, such as fence rows, roads, tree lines, or steep slopes, exist.

7. Putrescible sewage sludge, regardless of pathogen reduction process, shall be immediately incorporated into the soil.

### 6 MCAR § 4.6112 Record keeping and annual reporting.

A. Record keeping. A record keeping system shall be initiated and maintained by the political subdivision generating the sewage sludge that is applied at landspreading sites to verify compliance with 6 MCAR § 4.6111. The information recorded in the system shall include the following:

1. required sewage sludge composition data pursuant to 6 MCAR § 4.6111 A.5.;
2. soil test data for landspreading sites used during the year, pursuant to 6 MCAR § 4.6111 G.11.;
3. the location of the landspreading and stockpile sites on a United States Geological Survey quadrangle or soil survey map and the number of acres to which sewage sludge was applied, if different from the submitted application;
4. the amount of sewage sludge applied that year and cumulatively expressed in terms of tons of sewage sludge solids per acre;
5. the known amount of available nitrogen applied that year expressed in terms of pounds per acre;
6. the amount of cadmium, zinc, lead, nickel, and copper applied that year and cumulatively expressed in terms of pounds per acre; and
7. vegetation grown on the site during the year.

B. Reports. The information in A. shall be recorded on an agency form by the political subdivision and submitted annually to the agency no later than the March 1 next following the end of the reporting year. The form for annual reporting may be obtained from the director.

### Chapter Seven: Landspreading Facilities

6 MCAR § 4.6121 Requirements and limitations. The following requirements and limitations apply to the management of landspreading facilities.

#### A. Ground water protection.

1. A sewage sludge landspreading facility shall be designed, constructed, monitored, and maintained so that it will comply with the standards of rule WPC 22 of the Minnesota Pollution Control Agency at the facility boundary.

2. The facility shall comply with the following minimum design requirements unless the permittee can demonstrate that compliance with 1. will be accomplished.

a. A minimum of six ground water monitoring wells shall be installed at the facility. Four wells shall be placed within the facility boundaries, two upgradient and two downgradient of ground water flow. The remaining two wells shall be placed within the area of landspreading. All wells shall be placed in the uppermost portion of the first aquifer below the landspreading facility that is currently being used or may be used in the future for drinking well purposes. All wells shall sample the same portion of the aquifer. At a minimum, the frequency of sampling shall be semi-annually. The parameters to be tested for and a sampling frequency exceeding the minimum shall be determined by the director and will be based upon soil permeabilities, depth to water table, direction of ground water flow in relation to the location of potable water supply wells, distance to potable water supply wells, sewage sludge application rates, sewage sludge quality, and suitability of the ground water as a source of potable drinking water.

b. A landspreading facility shall not be located on soils that have permeabilities of greater than six inches per hour throughout the profile above the water table.

c. Landspreading facilities shall not be located in areas where the soil profile has less than six inches of available water-holding capacity between the soil surface and the water table or bedrock.

d. Landspreading facilities shall be located at least 1,000 feet from potable water supply wells that are finished to a depth of less than 50 feet and are downgradient with respect to ground water flow direction.

e. Sewage sludge application rates shall supply no more nitrogen than the amount required by the vegetation to be grown at the facility. The rate of sewage sludge application shall be determined using the method outlined in 6 MCAR § 4.6135.

f. Any basin, tank, pit, or lagoon used to store liquid sewage sludge shall not seep at a rate greater than 500 gallons per acre per day. Any area at a landspreading facility used to store dewatered sewage sludge for a period in excess of one month per year shall be paved with asphalt or concrete to a depth sufficient to bear the weight of unloading and loading trucks and

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equipment without cracking. The pad shall be sloped and curbed to collect all runoff water. Runoff water shall be routed to a wastewater treatment facility or land applied in a manner approved by the director.

### B. Surface waters protection.

1. A sewage sludge landspreading facility shall be designed, constructed, operated, and maintained so that it will not impact the use or the quality of surface waters.

2. The facility shall comply with the following minimum design requirements unless the permittee can demonstrate that compliance with 1. will be accomplished.

a. A sewage sludge landspreading facility shall not be located within 1,000 feet of the normal high water level of any lake or pond.

b. A sewage sludge landspreading facility shall not be located within 300 feet of any river or stream.

c. A sewage sludge landspreading facility shall not be located within a wetland.

d. A sewage sludge landspreading facility shall not be located within a hundred year floodplain.

e. Surface sewage sludge application at a landspreading facility shall not take place within 100 feet of an intermittent stream unless it is immediately incorporated, in which case the separation distance may be reduced to 25 feet.

f. The director may determine that discharge from a landspreading facility of subsurface water via underground drainage systems or of channelized runoff to surface waters should be monitored. Any required monitoring, parameters to be monitored for, and sampling frequency shall be determined by the director based upon the following: discharge quantity; time of year discharge is expected; classification of receiving water; sewage sludge quality; sewage sludge application rate; source of channelized runoff; depth of tile drainage system; and purpose of tile drainage system.

### C. Public health and safety.

1. A sewage sludge landspreading facility shall be designed, constructed, operated, and maintained so that it will not adversely impact the health and safety of the public living near or passing by the facility. The facility shall comply with applicable provisions of rule APC 9 of the Minnesota Pollution Control Agency at the facility boundary.

2. The facility shall comply with the following minimum design requirements unless the permittee can demonstrate that compliance with 1. will be accomplished.

a. At a minimum, sewage sludge applied to a landspreading facility shall be treated by a process to significantly reduce pathogens.

b. Daily surface applications of liquid sewage sludge shall be limited to quantities that will infiltrate into the soil within 24 hours.

c. Unauthorized public access to a landspreading facility shall be controlled by fencing or posting of appropriate signs.

d. Any landspreading facility located within 10,000 feet of any airport runway used by turbojet aircraft or within 5,000 feet of any airport runway used by only piston-type aircraft shall have the approval of the Federal Aviation Administration.

### D. Food-chain protection.

1. A sewage sludge landspreading facility shall be designed, constructed, operated, and maintained so that the quality of food-chain crops grown at the facility complies with applicable regulations of the Food and Drug Administration, United States Department of Agriculture, and rules of the Minnesota Department of Agriculture.

2. The facility shall comply with the following minimum design requirements unless the permittee can demonstrate that compliance with 1. will be accomplished.

a. If crops for direct human consumption are to be grown at a landspreading facility within 18 months of sewage sludge application, the sewage sludge shall be treated by a process to further reduce pathogens.

b. If sewage sludge is to be applied to land used for pasturing livestock or for growing forage crops, the pasturing or harvesting of the crop shall not take place for at least one month following the last sewage sludge application.

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c. Sewage sludge containing concentrations of PCBs greater than ten milligrams per kilogram of sewage sludge solids shall be incorporated into the soil when applied to land used for producing food-chain crops.

d. Sewage sludge containing concentrations of PCBs equal to or greater than 50 milligrams per kilogram of sewage sludge solids shall not be landspread.

e. If the facility is used for growing a food-chain crop, vegetative tissue shall be sampled at the stage of development designated in 6 MCAR § 4.6133 and analyzed for cadmium if the pH of the soil and sewage sludge mixture is less than 6.5 immediately before the time food-chain crops are grown; or the annual application of cadmium exceeds one-half pound per acre on land used for the production of tobacco, leafy vegetables or root crops grown for human consumption; or the annual cadmium application rate exceeds two pounds per acre on land used for the production of other food-chain crops.

f. The cumulative addition of cadmium to any land shall not exceed the levels in Exhibit 6 MCAR § 4.6121 D.2.f.-1, unless the only food-chain crop produced is animal feed; the pH of the soil and sewage sludge mixture is 6.5 or greater immediately before the time the crop is planted and this pH level is maintained whenever food-chain crops are grown; vegetative tissue is sampled at the stage of development designated in 6 MCAR § 4.6133 and analyzed for cadmium; there is a facility operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans and which describes the measures to be taken to safeguard against possible health hazards from cadmium entering the food-chain, which may result from alternative land uses; and future property owners are notified by a stipulation in the land record or property deed of the amount of cadmium the property has received and that food-chain crops should not be grown due to a possible health hazard.

### Exhibit 6 MCAR § 4.6121 D.2.f.-1

#### Maximum Cumulative Addition of Cadmium

Soil Cation Exchange Capacity (milliequivalents/100 grams)	Maximum Cumulative Cadmium Addition (pounds/acre)
Less than 5	5
5-15	10
More than 15	20

g. The cumulative addition of lead, zinc, copper, and nickel shall not exceed the levels in Exhibit 6 MCAR § 4.6121 D.2.g.-2 unless future property owners are notified by a stipulation in the land record or property deed of the amount of lead, zinc, copper, or nickel applied, whichever are in excess. The stipulation shall state that these levels may result in reduced crop yield.

### Exhibit 6 MCAR § 4.6121 D.2.g.-2

#### Maximum Cumulative Heavy Metal Addition

Soil Cation Exchange Capacity (milliequivalents/100 grams)	Maximum Cumulative Heavy Metal Addition (pounds/acre)			
	Lead	Zinc	Copper	Nickel
Less than 5	500	250	125	50
5-15	1000	500	250	100
More than 15	2000	1000	500	200

### 6 MCAR § 4.6122 Record keeping and annual reporting.

A. Record keeping. A record keeping system shall be initiated and maintained by the permittee of the landspreading facility to verify compliance with requirements and limitations in 6 MCAR § 4.6121. The information recorded in such a system shall include the following:

1. sewage sludge composition data for parameters outlined in 6 MCAR § 4.6111 A.5.;
2. the quantity and rate of sewage sludge solids applied to the facility expressed in tons per acre;
3. the amount of available nitrogen applied to the facility expressed in pounds per acre;
4. the amount of cadmium, zinc, lead, nickel, and copper applied that year and cumulatively expressed in pounds per acre;
5. vegetation grown and use of vegetation grown at the facility;
6. results of required monitoring of ground water, soils, or vegetative tissue;
7. information required in the facility operating permit;



8. a description of any adverse environmental, health, or social effects, complaints, management problems, or other difficulties encountered during the year due to sewage sludge disposal; and

9. a report of any action not in compliance with the permit or 6 MCAR § 4.6121.

At a minimum, the frequency of sewage sludge sampling and analysis shall be once a year. A frequency exceeding the minimum may be required by the director at the time of permit issuance based on the following: sewage sludge characteristics; quantity of sewage sludge applied at the facility; frequency of sewage sludge application; and design wastewater treatment system daily flow.

B. Reports. The information and records prescribed in A. shall be organized into a report to be submitted annually to the agency no later than the March 1 next following the end of the reporting year.

#### Chapter Eight: Appendices

#### 6 MCAR § 4.6131 Collection and analysis of sewage sludge samples.

##### A. Collection of sewage sludge samples.

1. The following sampling and handling methods for liquid sewage sludge are recommended to obtain a sample that accurately represents the sewage sludge being sampled.

a. Daily grab samples of approximately one cup of sewage sludge are transferred to a two-gallon watertight container left in a refrigerator at 4 degrees Centigrade. After one month, the large composite sample is thoroughly mixed and a quart subsample removed for analysis. The quart subsample is delivered or shipped to the analytical laboratory as rapidly as possible in a very well-insulated shipping container. During very warm weather, the subsample is packed with dry ice to prevent microbial activity which would affect analytical values. If more than one day will elapse between sample collection and cold storage, enough sulfuric acid ( $H_2SO_4$ ) is added to decrease the sewage sludge pH to about pH 1.0, which is approximately 10 to 20 milliliters per quart, prior to shipping.

b. Random grab samples of equal volume are taken from different depths and locations in the storage lagoon, tank, or digester. Care is exercised to obtain samples from many varied sampling points. The grab samples are composited into a single container, thoroughly mixed, and a quart subsample removed for analysis. Subsample handling then proceeds as discussed in a.

2. The following sampling and handling method is recommended for dewatered sewage sludges that are stored in stockpiles, compost piles, or drying beds. The storage area is divided up into sections of equal size using an imaginary grid. Grab samples or cores are taken from the center of each section at several depths. The samples are then composited, thoroughly mixed, and a pint subsample removed for analysis. The subsample is delivered or shipped to the analytical laboratory as rapidly as possible in a well-insulated container.

B. Analysis of sewage sludge. Analytical procedures for determining constituents in sewage sludge samples shall be obtained from one of the following publications:

1. 'Methods for Chemical Analysis of Water and Wastes,' issued by the United States Environmental Protection Agency as EPA-625/6-74-003 (1974).

2. 'Standard Methods for the Examination of Water and Wastes,' 14th edition, issued by the American Public Health Association.

3. 'Analytical Procedures for Determining Organic Priority Pollutants in Municipal Sludges,' issued by the United States Environmental Protection Agency as EPA 600/2-80-030 (1980).

4. 'Method Development for Determination of Polychlorinated Hydrocarbons in Municipal Sludge,' issued by the United States Environmental Protection Agency as EPA 600/2-80-029 (1980).

#### 6 MCAR § 4.6132 Collection and analysis of soil samples.

A. Collection of soil samples. At a minimum, one soil sample shall represent an area of no more than 40 acres. Additional soil samples may be required if there are areas differing greatly in previous fertilization, liming, cropping history, land management, or soil texture. The soil shall be sampled to a depth of six to nine inches from at least 15 to 20 random locations in the sampling area. The samples shall be composited, thoroughly mixed, and subsampled for analysis. Approximately one pint of soil is necessary for analysis.

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## B. Analysis of soils.

1. Acceptable analytical methods for United States Department of Agriculture textural classification, organic matter, extractable phosphorus, exchangeable potassium, pH, and soluble salts are found in one or more of the following publications:

a. 'Guide to Computer Programmed Soil Test Recommendations in Minnesota,' issued by the University of Minnesota, Agricultural Extension Service as Special Report No. 1 (St. Paul, Minnesota, 1978).

b. 'Recommended Chemical Soil Test Procedures for the North Central Region,' issued by the North Dakota State University as North Central Region Publication No. 221 (1975).

c. 'Methods of Soil Analysis,' edited by C. A. Black, issued by the American Society of Agronomy as Agronomy Monograph No. 9 (Madison, Wisconsin, 1965).

d. 'Soil Survey Laboratory Methods and Procedures for Collecting Soil Samples,' issued by the Soil Conservation Service as Soil Survey Investigations Report 1 (revised) (Washington, D.C.: United States Government Printing Office, 1972).

2. Soil cation exchange capacity may be estimated on the basis of soil texture and organic matter content using Exhibit 6 MCAR § 4.6132 B.2.-1 or by direct analysis, either by the summation method for distinctly acid soils or the sodium acetate method for neutral, calcareous, or saline soils. ('Methods of Soil Analysis,' edited by C.A. Black, issued by the American Society of Agronomy as Agronomy Monograph No. 9 (Madison, Wisconsin, 1965).)

### Exhibit 6 MCAR § 4.6132 B.2.-1

Cation Exchange Capacity  
(milliequivalents/100 grams)

Soil Organic Matter Level

Texture	Low (less than 2%)	Medium (2-4%)	High (greater than 4%)
Coarse	less than 5	5-15	5-15
Medium	5-15	5-15	more than 15
Fine	more than 15	more than 15	more than 15

3. Available water-holding capacity measurements for different soil types and soil horizons may be found in Soil Conservation Service soil surveys or Soil Conservation Service soil interpretation sheets. Another acceptable alternative is the determination by direct analysis of soil samples. In general, the available water-holding capacity is the difference in water retained at 1/3 bar (1/10 bar for coarse-textured soil) and 15 bar matric suction. Acceptable procedures are discussed in the following publications:

a. 'Soil Survey Laboratory Methods and Procedures for Collecting Soil Samples,' issued by the Soil Conservation Service as Soil Survey Investigation Report 1 (revised) (Washington, D.C.: United States Government Printing Office, 1972).

b. Chapter 8-2, "Water Retentivity of Soil at Specified Values of Matric Suction," in 'Methods of Soil Analysis,' edited by C. A. Black, issued by the American Society of Agronomy as Agronomy Monograph No. 9 (Madison, Wisconsin, 1965).

4. Soil permeability measurements for different soil types and soil horizons can be found in Soil Conservation Service soil surveys and Soil Conservation Service soil interpretation sheets. Other acceptable alternatives include:

a. Determination by direct measurements in the field as outlined in Chapter 15, "Field Measurement of Hydraulic Conductivity Above a Water Table," in 'Methods of Soil Analysis,' edited by C. A. Black, issued by the American Society of Agronomy as Agronomy Monograph No. 9 (Madison, Wisconsin, 1965).

b. Determination in the laboratory using undisturbed soil samples as outlined in Chapter 13, "Laboratory Measurement of Hydraulic Conductivity of Saturated Soil," in 'Methods of Soil Analysis,' edited by C. A. Black, issued by the American Society of Agronomy as Agronomy Monograph No. 9 (Madison, Wisconsin, 1965).

5. The depth to the seasonal high water table for different soil types can be found in Soil Conservation Service soil surveys and Soil Conservation Service soil interpretation sheets. Other acceptable alternatives include:

a. Determination of the depth of soil having mottles with a chroma of two or less as discussed on pages 48 and 49 of the 'Soil Taxonomy,' issued by the Soil Conservation Service as Agriculture Handbook No. 436 (Washington, D.C.: United States Government Printing Office, 1975).

b. Measurement of water levels at monthly intervals over the course of one year in piezometers. The highest water level measurement obtained is acceptable as the seasonal high water table. The piezometers must be installed and water levels must be measured as outlined in Chapter 11, "Hydraulic Head," in 'Methods of Soil Analysis,' edited by C. A. Black, issued by the American Society of Agronomy as Agronomy Monograph No. 9 (Madison, Wisconsin, 1965).

**6 MCAR § 4.6133 Collection and analysis of vegetative tissue samples.**

A. Sample collection. Samples collected shall adequately represent the average condition of the vegetation grown at the landspreading facility. This is best accomplished by compositing many grab samples followed by subsampling to a quantity sufficient for chemical analysis. Areas that are managed differently, for example different soil type, crop, sewage sludge application rate, application method, shall be sampled separately. A sample shall represent an area no larger than ten acres.

Samples shall be taken from the following plant parts at the designated stages of development:

1. corn, leaf at, or opposite and below, ear level, at silking stage;
2. soybeans, the youngest mature leaves and petioles on the plant after first pod formation;
3. legumes, upper stem cuttings in early flower stage;
4. cereals, the whole plant at the boot stage; and
5. grasses, whole plants at early hay cutting stage.

B. Sample handling and preservation. All samples should be washed with deionized or distilled water to remove any surface contamination. Samples are then dried at 55 degrees Centigrade as quickly as possible, ground, and stored for analysis. If samples cannot be dried immediately, they shall be placed in plastic bags and stored in a refrigerator.

C. Sample analysis. Dried and ground tissue samples may be prepared for analysis by wet digestion in a suitable combination of nitric, sulfuric, or perchloric acid or by dry ashing at a temperature not to exceed 500 degrees Centigrade. Cadmium shall then be analyzed by using atomic absorption or flame emission spectroscopy.

**6 MCAR § 4.6134 Collection and analysis of ground water samples.**

A. Sample collection. Construction and sampling of ground water monitoring wells at sewage sludge landspreading facilities shall be consistent with methods discussed in either of the following publications:

1. 'Water Quality Monitoring at Solid Waste Disposal Sites in Minnesota,' issued by the Minnesota Pollution Control Agency (May 1979).
2. 'Procedures Manual for Ground Water Monitoring at Solid Waste Disposal Facilities,' issued by the United States Environmental Protection Agency as EPA/530/SW-611 (August 1977).

B. Sample analysis. Analytical procedures for determining constituents in ground water collected in monitoring wells at sewage sludge landspreading facilities shall be obtained from one of the following publications:

1. 'Methods for Chemical Analysis of Water and Wastes,' issued by the United States Environmental Protection Agency as EPA-625/6-74-003 (1974).
2. 'Standard Methods for the Examination of Water and Wastes,' 14th edition, issued by the American Public Health Association.

**6 MCAR § 4.6135 Determination of sewage sludge application rate based on crop nitrogen requirements.** Sewage sludge application rates shall be based upon soil texture, crop nitrogen requirements and yield goals, sewage sludge nitrogen availability, carry-over nitrogen supplied by past sewage sludge applications, and available nitrogen added by manures or fertilizers. The procedures in A.-E. shall be used:

A. Maximum allowable available nitrogen level. Based on cropping practices and soil texture, determine the maximum allowable available nitrogen level in pounds per acre from Exhibit 6 MCAR § 4.6135 A.-1 or Exhibit 6 MCAR § 4.6135 A.-2.

Maximum allowable nitrogen levels for crops not listed in these exhibits shall be based on agricultural extension, Soil Conservation Service, or University of Minnesota recommendations.

**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

## Exhibit 6 MCAR § 4.6135 A.-1 Maximum Allowable Available Nitrogen Levels for Various Crops, Yields, and Soil Textures

Crop	Yield/Acre	Maximum Allowable Available Nitrogen Level (pounds/acre)		
		Soil Texture		
		Coarse	Medium	Fine
Alfalfa	4 ton	180	210	230
	6 ton	280	340	370
Barley	80 bushel	100	110	120
Bluegrass	3 ton	180	210	230
Corn	75 bushel	100	120	130
	100 bushel	130	150	160
	125 bushel	150	180	190
	150 bushel	180	210	230
	175 bushel	210	250	270
Oats	75 bushel	80	90	100
	100 bushel	130	150	160
Soybeans	30 bushel	120	140	150
	40 bushel	180	210	230
	50 bushel	230	270	300
	60 bushel	280	340	370
Wheat	50 bushel	100	120	130
	75 bushel	160	180	190

## Exhibit 6 MCAR § 4.6135 A.-2 Maximum Allowable Available Nitrogen Levels for Non-Cropped, Non-Harvested Areas

Degree of Vegetative Cover	Maximum Allowable Available Nitrogen Level (pounds/acre)		
	Soil Texture		
	Coarse	Medium	Fine
High density (more than 50 percent cover)	75	100	125
Low density (25-50 percent cover)	50	75	100
Fallow (less than 25 percent cover)	0	50	75

B. Carry-over nitrogen. Determine carry-over nitrogen from the previous year's sewage sludge application using the following formula:

$$\text{Carry-over N (pounds per acre)} = (\text{percentage organic sewage sludge N}) \times (\text{tons sewage sludge solids applied per acre}).$$

If sewage sludge was not applied the previous year, carry-over nitrogen is zero.

C. Net allowable nitrogen level. To determine the net allowable available nitrogen level in pounds per acre subtract carry-over nitrogen, nitrogen added from other sources such as fertilizer or animal manure, if known, and available nitrogen applied the previous year to fallow land, from the maximum allowable available nitrogen level.

D. Sewage sludge available nitrogen. Determine the available nitrogen in sewage sludge in pounds per ton using the appropriate formula in Exhibit 6 MCAR § 4.6135 D.-3.

## Exhibit 6 MCAR § 4.6135 D.-3 Formulas for Determination of Available Nitrogen in Sewage Sludge (pounds of available nitrogen per ton of sewage sludge solids)

Type of Stabilization	Application Method	Formula
Digested	Surface	$(\% \text{ organic-N} \times 4) + (\% \text{ NH}_3\text{-N} \times 10)$
	Incorporated or Injected	$(\% \text{ organic-N} \times 4) + (\% \text{ NH}_3\text{-N} \times 15)$



## PROPOSED RULES

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2. Heat drying consists of a process by which dewatered sewage sludge cake is dried by direct or indirect contact with hot gases and moisture content is reduced to ten percent or lower. Sewage sludge particles must reach temperatures in excess of 80 degrees Centigrade, or the wet bulb temperature of the gas stream in contact with the sewage sludge at the point where it leaves the dryer must be in excess of 80 degrees Centigrade.

3. Heat treatment consists of a process by which liquid sewage sludge is heated to temperatures of 180 degrees Centigrade for 30 minutes.

4. Thermophilic aerobic digestion consists of a process by which liquid sewage sludge is agitated with air or oxygen to maintain aerobic conditions at residence times of ten days at 55 to 60 degrees Centigrade. The level of volatile solids in the sewage influent must be reduced by at least 38 percent after processing.

5. The director may determine that other methods or operating conditions are acceptable if pathogens, vector attraction, and volatile solids of the sewage sludge are reduced to an extent equivalent to the reduction achieved by the methods in 1.-4.

## ADOPTED RULES

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

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

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

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

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## Capitol Area Architectural and Planning Board Adopted Capitol Area Zoning and Design Rules

The rules proposed and published at *State Register*, Volume 5, Number 43, pages 1655-1683, April 27, 1981 (5. S.R. 1655) are now adopted with the following modifications:

### Rules as Adopted

[CAAPC 208 Renumber as CAAPB 207.]

CAAPB 259 Sign.

J. Identification and name ~~plate~~ plate: A business sign stating the name of a person, firm, institution, or name or description of a certain permitted use.

M. Political sign: A temporary sign which displays information pertaining to an ~~incoming~~ upcoming governmental district, city, county, state or national election.

[CAAPC 254 q.-r. Reletter and renumber as 259 T.-U.]

[Change all internal references in Chapter Four from CAAPC to CAAPB.]

CAAPB 405 Governmental district (G-2); conditional uses. Underground structures containing uses, as regulated in G-1 zone, shall be permitted provided that the following criteria are met:

C. ~~Proof~~ Reasonable documentation satisfactory to the board that soil conditions will not cause damage to adjacent property shall be provided.

CAAPB 410 Office-service district (OS-1); principal uses.

F. All principal uses permitted in the governmental district (G-1), as governed by CAAPB ~~403~~ 402.

CAAPB 609 Minimum number of required off-street parking spaces. The minimum number of off-street parking spaces by type of

use shall be determined in accordance with the following schedule. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall require one parking space.

Use	Number of Minimum Parking Spaces Per Unit of Measure
A. Governmental	One (1) for every three hundred (300) square feet of usable floor area.
B. Residential <del>one family</del> <u>Residential, one-family</u>	<del>Two (2) for each dwelling unit.</del> <u>Two (2) for each dwelling unit.</u>
Two-family and townhouse	Two (2) for each dwelling unit.
Multiple family	One (1) for each dwelling unit.
Housing for the elderly	One (1) for each four (4) units.
	Should units revert to general occupancy, then one (1) per unit shall be provided.
Boarding house	One (1) per each dwelling unit plus one (1) for each two (2) roomers.
C. Institutional <del>auditoriums</del>	<del>One (1) for each three (3) seats plus one (1) for each two (2) employees.</del>
<u>Auditoriums</u>	<u>One (1) for each three (3) seats plus one (1) for each two (2) employees.</u>
Churches or temples	One (1) for each three (3) seats or six (6) feet of pews in the main unit of worship.
Hospitals	One and one-half (1½) for each one (1) bed.
Homes for the aged and convalescent homes	One (1) for each two (2) beds.
Elementary and junior high schools	One (1) for each one (1) teacher, employee or administrator, in addition to the requirements of the auditorium.
Senior high schools	One (1) for each one (1) teacher, employee, or administrator, and one (1) for each ten (10) students, in addition to the requirements of the auditorium.
Private clubs or lodge halls	One for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
<u>Private tennis clubs, or other similar uses</u>	<u>One (1) for each two (2) member families or individuals.</u>
Theaters	One (1) for each five (5) seats plus one (1) for each two (2) employees.
D. Commercial <del>auditoriums</del>	<del>One (1) for each three (3) seats plus one (1) for each two (2) employees.</del>
<u>Auditoriums</u>	<u>One (1) for each three (3) seats plus one (1) for each two (2) employees.</u>
Planned commercial or shopping area located in any "B" district	One (1) for each one hundred (100) square feet of usable floor area, plus one (1) for each one (1) employee.
Auto wash	One (1) for each one (1) employee. In addition, forty (40) reservoir parking spaces shall be provided.
Beauty parlor or barber shop	Three (3) spaces for each of the first two (2) beauty or barber chairs, and one and one-half (1½) spaces for each additional chair.
Bowling alleys	Five (5) for each one (1) bowling lane.

**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.

## ADOPTED RULES

Dance halls, pool or billiard parlors, roller or ice skating rinks, exhibition halls, and assembly halls without fixed seats

Establishments for the sale and consumption on the premises of beverages, food, or refreshments

Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair and other similar uses

Automobile service center

Laundromats and coin-operated dry cleaners

Mortuary establishment

Motel, hotel, or other commercial lodging establishment

Motor vehicle sales and service establishments

Retail stores except as otherwise specified herein

Theaters

**E. ~~Offices banks, savings and loan associations, credit unions, and similarly regulated financial institutions.~~**

Banks, savings and loan associations, credit unions, and similarly-regulated financial institutions

Other financial institutions such as loan companies and similar establishments

Business offices or professional offices except as indicated in the following item

Professional offices of doctors, dentists, or similar medical professions

One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county or or state fire, building, or health codes

One (1) for each one hundred (100) square feet of usable floor space.

One (1) for each eight hundred (800) square feet of usable floor area. (For the floor area used in processing, space shall be provided for each one (1) person employed therein.)

Two (2) for each lubrication stall, rack, or pit, and one (1) for each gasoline pump.

One (1) for each two (2) machines.

One (1) for each fifty (50) square feet of assembly room usable floor space, parlors, and slumber rooms.

One (1) for each one (1) occupancy unit.

One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room.

One (1) for each hundred and fifty (150) square feet of usable floor space.

One (1) for each five (5) seats plus one (1) for each two (2) employees.

~~One (1) for each one hundred (100) square feet of usable floor space.~~

One (1) for each one hundred (100) square feet of usable floor space.

One (1) for each two hundred (200) square feet of usable floor space.

One (1) for each three hundred (300) square feet of usable floor space.

One (1) for each one hundred (100) square feet of usable floor area.

**CAAPB 610 Construction of off-street parking spaces.**

C. Parking areas may designate up to fifty percent (50%) of their area for compact cars only; in which case, the minimum layout dimensions for each compact car space then may be reduced to eight feet (8') width and sixteen feet (16') length.

**CAAPB 1104 Nonconforming signs.** When a lawful sign exists at on the effective date of these rules or amendments thereto and which is made non-conforming by reason of these rules, such sign may continue until January 1, 1986, as long as it remains otherwise safe, not unsightly (as defined in CAAPB 1102 H.), or not abandoned (as defined in CAAPB ~~1107~~ 1108), subject to the following provisions:

**CAAPB 1105 Administration and enforcement.** In the administration and enforcement of the sign rules contained in this chapter the board shall designate a zoning administrator who is hereby authorized and directed to enforce all the provisions of these sign rules.

The zoning administrator shall enforce the provisions of these sign rules and amendments thereto and shall have the power to certify compliance and issue sign permits, and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of these sign rules.

No permit shall be issued by the zoning administrator until he has reviewed all plans in detail and found them to conform to these rules.

The zoning administrator shall not grant any variances with respect to these rules in carrying out his or her duties as zoning administrator. Variances shall be granted by the board. The zoning administrator shall grant a permit upon a finding of compliance with the conditions imposed by these rules.

**CAAPB 1106 Sign permit; application.**

C. The lot, block, and addition at which ~~billboards~~ signs are to be erected and the street on which they are to front, and



**CAAPB 1201 Application.** Except as otherwise provided in CAAPB ~~1101-1105~~ 1109, the rules for all zoning districts, except the governmental district, shall be subject to the following interpretations and exceptions.

**CAAPB ~~1202~~ 1202 Essential services.** Essential services shall be permitted as authorized and regulated by law and rule. Essential services are exempt from the application of these rules.

**CAAPB 1402 Zoning permit required.** Except as otherwise provided in CAAPB ~~411-415~~ 412-416 and CAAPB ~~1101-1107~~ 1109, no land, building or structure, in any district, shall hereafter be changed to a different use, and no building, structure or any part thereof shall hereafter be erected, constructed, reconstructed, altered, enlarged, or moved until the board has issued a zoning permit, certifying that the plans and intended use, including any conditional use, of land, buildings, and structures are in conformity with all provisions of these rules.

**CAAPB 1403 Zoning permit; application.** Except as otherwise provided in CAAPB ~~411-415~~ 412-416 and CAAPB ~~1101-1107~~ 1109, all applications for zoning permits shall be submitted in writing and shall contain the following information:

**CAAPB 1406 Certificate of design compliance.** Subject to the provisions of Chapter Fifteen no building, structure, or any part thereof shall hereafter be erected, constructed, reconstructed, altered, enlarged, or moved until it has been issued, in addition to a zoning permit issued by the board and a building permit by the city of St. Paul, a certificate of design compliance by the board certifying that the plans of the building or structure are in conformity with all provisions of the design rules as provided in CAAPB ~~1502-1610~~ 1510.

**CAAPB 1413 Permit expiration.** No zoning permit or certificate of design compliance permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building ~~permit~~ is permitted for ~~such~~ erection or alteration is started and is proceeding with the terms of ~~such a~~ its permit or certificate.

**CAAPB 1501 Designation.** That part of University Avenue and adjacent land, Aurora Street and adjacent land, Cedar Street and adjacent land, John Ireland Boulevard and adjacent land, Park Avenue and adjacent land, Sherburne Avenue and adjacent land, and Rice Street and adjacent land as identified on the attached map entitled Visual Corridors are hereby designated as visual corridors in the capitol area.

**CAAPB 1502 Application.**

C. The repair or alteration of an existing building or structure if the cost of the repairs or alterations ~~exceed~~ exceeds sixty (60) percent of the replacement value of the building or structure, exclusive of its foundation.

**CAAPB 1504 Setback.**

B. State buildings along Cedar ~~Avenue~~ Street and John Ireland Boulevard shall be setback a distance no more than 40 feet from the front property line in order to visually expand the open space corridor.

**CAAPB 1511 Variances.** The board shall have the authority to grant variances from the strict application of these rules pursuant to the provisions of CAAPB ~~1504~~ 1604.

**CAAPB 1603 Disposition of variance requests.**

B. If, after receiving the variance request, the board determines that additional information must be submitted by the requesting person, it may direct the person seeking the variance to:

1. Submit additional data regarding the variance request to the board or ~~its executive secretary~~ the zoning administrator, or
2. Appear before the board or ~~its executive secretary~~ the zoning administrator to provide additional information thereon.

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## **Department of Economic Security**

### **Adopted Changes in Rules Governing the Minnesota Youth Employment Act**

The rules proposed and published at *State Register*, Volume 6, Number 15, pages 621-624, October 12, 1981 (6 S.R. 621) are now adopted as proposed.

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## **SUPREME COURT**

### **Decisions Filed Thursday, December 17, 1981**

#### **Compiled by John McCarthy, Clerk**

49100/Sp., 51605 Bruce Smith v. Scott Senst, Ross Muir d/b/a Whitewater Tavern, Citizens Security Mutual Insurance Company, garnishee, Appellant. Winona County.

The trial court erred in determining an intentional injury exclusionary clause of a homeowner's insurance policy did not preclude coverage.

Reversed, Otis, J.

81-311/Sp. State of Minnesota, by Jim Lord, its treasurer, Appellant, v. The First National Bank of Saint Paul, a national banking association. Ramsey County.

The proposed examination of records of a national bank under Minn. Stat. § 345.53 (1980), which authorizes the state treasurer to examine the records of any holder of unclaimed property, is not an exercise of visitatorial powers and is not preempted as to national banks under 12 U.S.C. § 484 (1976).

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

51332/14 Keith Vagle, Plaintiff, v. Pickands Mather & Co., Defendant. U.S. District Court.

Response to certified question. Wahl, J. Took no part, Scott, J.

51529/14 John Conover, Appellant, v. Northern States Power Company. Dakota County.

An employer of an independent contractor may, as a possessor of land, be personally liable to an employee of the independent contractor who is injured on the job.

Failure to give JIG instructions on duties of a possessor of land and allowance of expert's opinion on legal question of applicability of Electrical Safety Code were harmless errors.

An employer of an independent contractor does not owe a nondelegable duty of care to the contractor's employees; the trial court did not err in refusing to instruct the jury on the Restatement (Second) of Torts §§ 416, 424, 427 and 428 (1965).

The conditional order for a new trial is reversed as to damages but affirmed as to liability.

Reversed in part and affirmed in part. Simonett, J. Dissenting in part, Wahl, Todd and Yetka, JJ. Took no part, Scott, J.

81-319 Laron K. Honn, *et al.*, v. The City of Coon Rapids, Appellant. Anoka County.

Certiorari is not a proper procedure to review a legislative rezoning decision of a city council.

On review of a zoning decision to the district court the parties are entitled to a trial but evidence is limited to that presented before the municipal body or to new or additional evidence relevant to issues that had been raised and considered before the municipal body.

The standard of review in zoning matters is the reasonableness of the municipal body's action, but the nature of the matter under review, whether legislative or quasi-judicial, has a bearing on what is reasonable.

In this case the "agreed upon" record required by the trial court was not adequate to present the city council's denial of a rezoning application for judicial review, and the case is remanded to the trial court for trial.

Reversed and remanded. Simonett, J. Took no part, Sheran, C. J.

81-210/Sp., 81-216 Henry C. Hagen v. City of Fergus Falls and Great Central Insurance Company, Relators (81-210), City of Fergus Falls and AID Insurance Company, Relators (81-216), State Treasurer, Custodian of the Special Compensation Fund. Workers' Compensation Court of Appeals.

## SUPREME COURT

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The determination that medical reports, filed with the Workmen's Compensation Commission following an injury sustained by the employee in 1970 arising out of an in the course of his employment, did not constitute automatic registration of a physical impairment pursuant to Minn. Stat. § 176.131, subd. 4 (1969), has substantial evidentiary support.

Affirmed. Rogosheske, J.

## Decision Filed Monday, December 14, 1981

81-796/Sp. State of Minnesota v. Jacqueline Rott, Appellant. Ramsey County.

Trial court was justified in departing from presumptive sentence in two ways, both in executing sentence and in increasing the sentence length, where evidence established that defendant was unamenable to probation and where conduct underlying the charged of which defendant was convicted showed that she had committed a major economic offense.

Affirmed as modified. Amdahl, J.

## Decision Filed Tuesday, December 15, 1981

81-1053/Sp. State of Minnesota, Appellant, v. Moreene Esther Weber. Redwood County.

*Held*, appeal by prosecution pursuant to Minn. R. Crim. P. 29.03, subd. 1, will be dismissed where, absent special circumstances, the prosecutor fails to comply with the time limit for filing an appellant's brief.

Appeal dismissed. Sheran, C. J.

## STATE CONTRACTS

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

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

## Department of Education Instruction Division

### Notice of Availability of Contracts for Community Educators

The Minnesota Department of Education has been awarded a Federal Grant to develop Community Partnerships. Contractors knowledgeable in the field of Community Education are being sought to complete the terms of the grant by June 30, 1982. One contract will involve establishment of model partnerships at five different Community Education sites. The other two contracts divide the tasks of coordinating the management of the project which includes planning, training, evaluation, and publication of the project monographs. Proposals from one contractor for one, two or three parts of the project may be made.

It is estimated that about \$3,000 for each part of the project will be sufficient to accomplish the requirements. Authorized travel expenses will be reimbursed at state rates.

Send your response to:

Larry Erie or Don Peterson  
Community Education  
Room 680, Capitol Square Building  
St. Paul, Minnesota 55101  
Telephone (612) 296-2587 or 296-3160

**Department of Transportation  
Technical Services Division  
Research and Development Office****Notice of Availability of a Contract for Implementation of Research Findings**

The Department of Transportation acting as the agent for the Local Research Board requires the services of a consultant for implementation of research findings applicable to county highway and municipal streets in Minnesota. This contract involves the review of selected research, recommendation of implementation procedures and performance of effective implementation activities. Concurrent activity on several implementation projects may be anticipated.

A seasoned professional, with engineering and educational experience who is familiar with design, construction and maintenance practices and problems on Minnesota streets and highways, as well as national research trends, is desired.

The Local Road Research Board has budgeted a maximum of \$30,000 per year for this two year contract. Interested bidders should note that the board may extend this project for an additional two years if they should decide to continue the project beyond the initial two year period.

Those interested may obtain a request for proposal from:

Gabriel S. Bodoczy  
Research Services Engineer  
Minnesota Department of Transportation  
Research and Development Office  
Room B-9, Transportation Building  
St. Paul, Minnesota 55155  
Telephone: (612) 296-4925

Request for Proposals will be available through January 15, 1982. All proposals will be due no later than January 26, 1982.

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**OFFICIAL NOTICES**

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

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

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**Department of Agriculture  
Agronomy Services Division****Notice of Special Local Need Registration for Far-Go Herbicide**

Pursuant to Minn. Stat. § 18.A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on December 9, 1981, issued a Special Local Need Registration for Far-Go Granular Herbicide manufactured by Monsanto Agricultural Products Company, 800 North Lindbergh Boulevard, St. Louis, MO 63166.

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

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide to be fall applied with no incorporation until spring.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 81-0020) is on file for inspection at:

## OFFICIAL NOTICES

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Minnesota Department of Agriculture  
Pesticide Control Section  
90 West Plato Blvd.  
Saint Paul, Minnesota 55107  
Phone: (612) 296-8547

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

December 16, 1981

Mark W. Seetin, Commissioner

## Ethical Practices Board Advisory Opinion #81

**Approved by the Ethical Practices Board on December 2, 1981**

Issued to:

Mr. Tim Groshens, Administrator  
Lawyers Public Affairs Commission  
110 Minnesota Federal Building  
Minneapolis, MN 55402

**Re: Voluntary Contribution Plans**

### Summary

81. Voluntary checkoff plans conducted by a membership association may be used by political committees or political funds to raise money if:

1. The political committee or fund reimburses the association for all costs in soliciting, collecting and recording amounts allocated to the political committee or fund and receives only legal contributions.
2. A single payment covering both dues and political contribution is put into a separate trust bank account with the political contribution transferred promptly to the political committee or fund. The trust bank account is subject to audit under Minn. Stat. § 10A.

The full text of the opinion is available upon request from the office of the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, (612) 296-5148.

## Board of Nursing

### Notice of Meetings and Availability of Information Pertaining to Adjudicatory Actions of the Board

The Board of Nursing will meet on the following dates during 1982 in Room 105, Minnesota Department of Health Building, 717 Delaware Street SE, Mpls., MN:

February 4 and 5  
April 1 and 2  
June 3 and 4

August 5 and 6  
October 7 and 8  
December 2 and 3

The public is cordially invited to attend the meetings. Information about time of the meetings or the agenda may be obtained from the Board of Nursing office.

The adjudicatory (disciplinary) actions taken by the Board of Nursing against professional nurses (RNs) and practical nurses (LPNs) are available following each board meeting. A list of actions will be sent upon receipt of a written request. Public documents are available for review at the Board office Monday through Friday between 8:00 a.m. and 4:30 p.m.

Address requests to Joyce M. Schowalter, Executive Secretary, Minnesota Board of Nursing, 717 Delaware St. SE, Mpls., MN 55414, telephone (612) 296-5493.

**Department of Public Safety  
Bureau of Criminal Apprehension****Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the  
Issuance of Explosives Licenses and Permits**

Notice is hereby given that the State Department of Public Safety is seeking information or opinions from sources outside the agency and is preparing to promulgate new rules governing the issuance of explosives licenses and explosives permits. The promulgation of these rules is pursuant to Minnesota Statutes §§ 299F.71 through 299F.83 which authorizes the commissioner to issue explosives licenses and permits and determine eligibility.

The Department of Public Safety requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to: John D. Erskine, Superintendent, Bureau of Criminal Apprehension, 1246 University Avenue, St. Paul, Minnesota 55104. Oral statements will be received during regular business hours over the telephone at (612) 296-2662 and in person at the above address.

All statements of information and comment shall be accepted until February 1, 1982. Any written material received by the Bureau of Criminal Apprehension shall become part of the record in the event that the rules are promulgated.

John P. Sopsic, Commissioner

**Department of Public Safety  
Bureau of Criminal Apprehension****Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the  
Issuance of Permits for the Use of Police Communications Equipment in Motor  
Vehicles Pursuant to Minn. Stat. § 299C.37.**

Notice is hereby given that the State of Minnesota, Department of Public Safety, Division of Bureau of Criminal Apprehension is seeking information or opinions from sources outside the agency and is preparing to promulgate new rules governing the issuance of permits for the use of police communications equipment in motor vehicles. The promulgation of these rules is authorized by Minnesota Statutes §§ 299C.37, subd. 3 which requires the superintendent of the Bureau of Criminal Apprehension to establish rules for carrying out and enforcing Minnesota Statutes §§ 299C.30 through 299C.38 concerning police radio broadcasting stations.

The Bureau of Criminal Apprehension requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to: John D. Erskine, Superintendent, Bureau of Criminal Apprehension, 1246 University Avenue, St. Paul, Minnesota 55104. Oral statements will be received during regular business hours over the telephone at (612) 296-2662 and in person at the above address.

All statements of information and comment shall be accepted until February 1, 1982. Any written material received by the Bureau of Criminal Apprehension shall become part of the record in the event that the rules are promulgated.

John P. Sopsic, Commissioner  
John D. Erskine, Superintendent

**Department of Public Welfare  
Social Service Bureau****Notice of Intent to Solicit Outside Opinion Concerning Foster Care Services to  
Children**

Notice is hereby given that the Minnesota Department of Public Welfare is considering draft amendments to 12 MCAR § 2.204, Foster Care-Children. This rule governs the administration and provision of foster care services to children and their families in Minnesota. Authority for this rule is contained in Minnesota Statutes, Chapters 257, 260, and 393. Authority is also

## OFFICIAL NOTICES

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found in Public Law 96-272. The proposed changes are limited to revised sections on Service Plan (12 MCAR § 2.204 C.1.h.) and Rates Paid to Foster Home (12 MCAR § 2.204 C.1.i.).

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

Sandra Erickson  
Division of Social Services  
Minnesota Department of Public Welfare  
4th Floor, Centennial Office Building  
St. Paul, MN 55155

All statements of information and comment must be received by January 31, 1982. Any written material received by the department shall become part of the hearing record.

## 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 55155-1299; (612) 296-7876. Application deadline is January 19, 1982.

**HUMAN RIGHTS ADVISORY COMMITTEE** has 1 vacancy for a member. The committee advises the Commissioner of Human Rights and recommends programs and policies. Members are appointed by the Governor. Monthly meetings are held. Members receive \$35 per diem. For specific information, contact the Human Rights Advisory Committee at 240 Bremer Bldg., St. Paul 55101; (612) 296-5676.

**BOARD ON JUDICIAL STANDARDS** has 1 vacancy for a District Court Judge. The board investigates allegations of misconduct by Minnesota judges and recommends judicial discipline to the Supreme Court, including censure, suspension, retirement or removal of judges. Members are appointed by the Governor and confirmed by the Senate. Monthly meetings are held. Members receive \$35 per diem. For specific information, contact the Board on Judicial Standards at 202 Minnesota State Bank Bldg., 200 S. Robert, St. Paul 55107; (612) 296-3999.

**CORRECTIONS BOARD** has 1 vacancy for a woman member. The board grants paroles and discharges to adult felons committed to the Commissioner of Corrections. Members are appointed by the Governor and confirmed by the Senate. Members must file with the Ethical Practices Board. Members hold six year terms. Positions are full-time. Members receive \$25,682 annually. The board will expire June 30, 1982. For specific information, contact the Corrections Board at 430 Metro Square Bldg., St. Paul 55101; (612) 296-2729.

## Waste Management Board

### Notice of Elimination of Proposed Area in Shakopee from Further Consideration as a "Preferred Area" for Hazardous Waste Processing Facilities

At its December 4 meeting in Thief River Falls the Waste Management Board voted to eliminate from further consideration an area in Shakopee proposed by the board September 11 as a "preferred area" for hazardous waste processing facilities.

The board took the action after the Shakopee City Council voted on December 1 to withdraw its proposal of the area, a five-acre site formerly owned by Pollution Control, Inc. The area had originally been volunteered by the City Council and the Mayor of Shakopee for possible inclusion in the board's "Inventory of Preferred Areas for Hazardous Waste Processing Facilities," to be issued in February, 1982.

Following the Waste Management Board's December 4 action the board cancelled a public hearing on the proposed area, which had been scheduled for December 11.

## Errata

At *State Register*, Volume 6, Number 25, December 21, 1981, page 1163 (6 S.R. 1163), in 4 MCAR § 7.009 C.1., change "April 1, 1981" to read "April 1, 1982."



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