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# STATE REGISTER

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Table with 4 columns: Issue Number, \*Submission deadline for Executive Orders, Adopted Rules and \*\*Proposed Rules, \*Submission deadline for State Contract Notices and other \*\*Official Notices, Issue Date. Includes a sub-section for SCHEDULE FOR VOLUME 6.

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

\*\*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.

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

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

**The PROPOSED RULES section contains:**

- 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:

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Issues 14-25, inclusive	Issues 40-51, inclusive
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# EXECUTIVE ORDERS

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## Executive Order No. 82-2

### Providing for the Establishment of a Governor's Council on a Quality Environment and Resource Recycling

I, Albert H. Quie, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, including but not limited to Minnesota Statutes § 15.0593 (1980), do hereby issue this Executive Order:

WHEREAS, Minnesotans take pride in their state and have an active concern for maintaining and improving its ecological and economic environment; and

WHEREAS, it is recognized that quality environment and a genuine commitment to sound resource utilization will provide a more favorable climate for business enterprise in the state; and

WHEREAS, there is an increasing awareness on the part of individuals and organizations of the need to take greater responsibility for their environment; and

WHEREAS, an organized program of resource recycling and community revitalization would greatly enhance efforts already underway that emphasize our quality of life; and

WHEREAS, efforts to facilitate and encourage public and private initiatives in these areas are both promising and beneficial;

NOW, THEREFORE, I ORDER:

1. The establishment of the Governor's Council on a Quality Environment, pursuant to Minnesota Statutes § 15.0593 and other applicable state statutes.

a. The council shall be composed of 15 members appointed by the Governor who shall be experienced or interested in resource recycling and community revitalization.

b. The chairperson of the council shall be appointed by the Governor from among the members.

c. The Commissioners of Agriculture, Education, Natural Resources, Transportation, Energy, Planning and Development, and the Executive Director of the Pollution Control Agency, or their designees, are hereby instructed to work with the council to accomplish its aims set forth below.

d. Members of the council shall not receive per diem, but may be reimbursed for travel and other ordinary and necessary expenses.

2. The council is charged as follows:

a. To identify and find ways to coordinate and make more effective existing and proposed programs for recycling.

b. To identify and find ways to coordinate and make more effective existing and proposed programs for community revitalization.

c. To identify and find ways to coordinate and make more effective existing and proposed programs of public information and awareness in these areas.

d. Where necessary to meet identified needs in these areas, to recommend additional programs to augment those already existing or proposed.

e. To coordinate and encourage efforts in both the public and private sector to plant trees, for aesthetic enjoyment and for economic benefit, by maintaining and increasing the urban forest.

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**EXECUTIVE ORDERS**

f. To plan, organize, coordinate and direct a Minnesota Green-Up, Clean-Up program, and to recommend steps to make this program a continuing effort.

g. To report its accomplishments and recommendations to the Governor and Legislature on or before February 1, 1983.

3. The council is authorized to solicit, receive and disburse, on behalf of the state, funds to further the purposes for which it is established.

4. The chairperson may, subject to approval by the council, appoint advisory committees composed of individuals who have interest or expertise to assist it in its work. Such appointees shall receive no reimbursement.

5. The council may, subject to the availability of funds, contract with such individuals and organizations as may be able to assist in carrying out the duties of the council.

Pursuant to Minnesota Statutes § 4.035 (1981), this order shall become effective fifteen (15) days after publication in the *State Register* and filing with the Secretary of State and shall expire in accordance with the provisions of Minnesota Statutes 1981, Section 4.035, subd. 3.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 29th day of January, 1982.



# PROPOSED RULES

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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.

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## State Board of Education Department of Education Special Services Division

### Proposed Amendments to and Repeal of Rules Governing Private Business, Trade and Correspondence Schools (EDU 380-388)

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

Notice is hereby given that the State Board of Education proposes to adopt the above-entitled rules without a public hearing. The board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. § 15.0412, subd. 4h.

These rules govern the operation of Private Business, Trade and Correspondence Schools licensed pursuant to Minn. Stat. §§ 141.21-141.36.

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 Minn. Stat. § 15.0412, subds. 4-4f.

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

James Beck, Supervisor  
Private Vocational School Unit  
626 Capitol Square Building  
550 Cedar Street  
St. Paul, MN 55101  
Telephone: (612) 296-7896

Authority for adoption of these rules is contained in Minn. Stat. § 141.23. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from James Beck upon request.

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

A copy of the proposed rules is attached to this notice.

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## PROPOSED RULES

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

John J. Feda, Secretary  
State Board of Education

### Rules as Proposed

#### EDU 380 School licensing.

##### B. Application.

~~6- 5.~~ Information to be submitted on instructor qualifications. To satisfy the requirements of section Minn. Stat. § 141.25, subd. 3, paragraph clause (f) the school shall name the instructors and supervisors currently employed for each specified field of instruction and certify that each instructor and teaching supervisor has met all teacher qualification requirements of the State of Minnesota in EDU 381 C. and has been approved ~~or certified~~ by the Minnesota Department of Education to teach in that specified field.

#### EDU 382 Catalog or brochure.

##### B. Contents.

3. Refund policy. The catalog or brochure shall contain the refund policy printed in its entirety. The policy shall be in accordance with ~~section 141.27~~ Minn. Stat. § 141.271. A simple statement indicating merely that the school is in compliance with Minnesota law or Minnesota refund policies will not suffice. Along with the printed policy shall be an explanation of the word "student," as defined in EDU 385 C.

#### EDU 385 Contracts; definition of student.

~~C. Definition. The word~~ A. Student defined. "Student" ~~where~~ used in ~~section 141.27~~ Minn. Stat. § 141.271 ~~shall be construed to mean~~ means the student himself, if ~~he~~ the student is the party to the contract, or ~~his~~ the student's parent or guardian or another person; if the parent or guardian or other person is the party to the contract on behalf of the student.

#### EDU 386 Degree granting.

~~B. Approval, not exemption. Such approval for granting of degrees to schools covered under the Act shall~~ A school which offers both degree and non-degree programs shall obtain a license for its non-degree programs. The school is not serve to exempt such schools from the Act under section by reason of Minn. Stat. § 141.35, clause (a).

Repealer. Rules EDU 380 B.4., 4.a. and 4.b.; EDU 381 D.; EDU 385 A., A.1. and 2., B., B.1. and 2.; and EDU 386 A. and C. are repealed.

Renumbering and Relettering. Renumber EDU 380 B.5. as EDU 380 B.4. Reletter EDU 385 D. as EDU 385 B.

## Department of Energy, Planning and Development Energy Division (Minnesota Energy Agency) Alternative Energy Development Section

### Proposed Temporary Rules for the Administration of the District Heating Bonding Act Regarding Construction Loans

#### Request for Public Comment

Notice is hereby given that, in compliance with Laws of 1981, Chapter 334, § 1, known as the District Heating Bonding Act, the Department of Energy, Planning and Development (the Minnesota Energy Agency) is proposing the following temporary rules for the purpose of administering the act.

Persons interested in these rules have 20 days from this publication to submit data and views on the proposed temporary rules in writing: Comments should be submitted to:

**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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Mr. Ronald Sundberg  
Minnesota Energy Agency  
980 American Center Building  
150 East Kellogg Boulevard  
St. Paul, Minnesota 55101  
Telephone: 612/296-9096

The proposed temporary rules may be modified if the modifications are supported by the data and views submitted to the agency.

These proposed temporary rules, with modifications, if any, shall be submitted to the Attorney General for final approval as to form and legality. The temporary rules shall take effect immediately upon the Attorney General's approval.

These temporary rules shall then be effective for 180 days or until they are replaced by permanent rules, whichever occurs first.

Michael J. Murphy  
Acting Director

### Temporary Rules as Proposed (all new material)

**6 MCAR § 2.4021 [Temporary] Authority.** Rules 6 MCAR §§ 2.4021-2.4034 [Temporary] are authorized by Minn. Stat. § 116H.31 subd. 11.

**6 MCAR § 2.4022 [Temporary] Purpose.** Rules 6 MCAR §§ 2.4021-2.4034 [Temporary] are promulgated to allow those district heating projects that have already completed comprehensive engineering, economic, and design studies to make prompt and proper application for construction loans. Rules 6 MCAR §§ 2.4021-2.4034 [Temporary] set forth the procedures that municipalities must follow to apply for loans and establish the criteria by which the applications are reviewed.

**6 MCAR § 2.4023 [Temporary] Applicability.** Rules 6 MCAR §§ 2.4021-2.4034 [Temporary] apply to the department and to any municipality applying for construction loans under the act.

**6 MCAR § 2.4024 [Temporary] Definitions.**

A. Applicability. For the purposes of 6 MCAR §§ 2.4021-2.4034 [Temporary] the terms defined in B.-K. have the meanings given them.

B. Act. "Act" means Laws of 1981, ch. 334.

C. Commissioner. "Commissioner" means Commissioner of the Department of Energy, Planning and Development.

D. Debt service cost. "Debt service cost" means the sum of all costs amortizing lease indebtedness, bond indebtedness, urban development action grant indebtedness, and any state indebtedness which is attributed to the project on an annual basis.

E. Debt service coverage. "Debt service coverage" means the gross revenues of the project minus the sum of the operating expenses plus the debt service cost. The debt service coverage shall be expressed as a percentage of the debt service cost.

F. Department. "Department" means the Department of Energy, Planning and Development.

G. Financial consultant. "Financial consultant" means a reputable person or firm experienced in working with complex revenue-supported financial plans and qualified to assess the financial condition and operation of the project.

H. Gross revenues. "Gross revenues" means all revenues, fees, user charges, rents, franchise fees, special assessments, and other income and receipts derived from the ownership or operation of the project, the proceeds of any insurance which insures against the loss of gross revenues, any investment income from monies or securities derived from the state loan under the act, and any other income and receipts attributable to the ownership or operation of the project from whatever source derived.

I. Operating expenses. "Operating expenses" means all expenses directly and properly attributable to the operation of the project on an annual basis. Examples are: expenses for operation, maintenance, repairs, ordinary replacement, ordinary acquisition of equipment, fuel and heat, labor and fringe benefits, lease rental payments, insurance premiums, administration, legal services, engineering services, payments of all indebtedness, and any other current expenses or obligations required to be paid by the municipality or owner of the project, all to the extent properly and directly attributable to the operation of the project. Operating expenses shall not include any costs or expenses for new construction or any allowance for depreciation.

J. Project. "Project" means district heating construction project as described by the business plan.

K. Take-or-pay contract. "Take-or-pay contract" means a contract between a district heating system and a thermal load customer whereby the customer agrees to take a predesignated amount of thermal energy over a certain time period or to pay a sum equivalent to the value of the predesignated amount of thermal energy, even if less is taken.

6 MCAR § 2.4025 [Temporary] Contents of application. The application for construction loans shall contain the following information:

- A. Name, address, and telephone number of the responsible official of the municipality;
- B. A comprehensive business plan for the project, as described in 6 MCAR § 2.4026 [Temporary];
- C. A resolution in support of the project from the governing body of the municipality, as described in 6 MCAR § 2.4030 [Temporary];
- D. Identification of all licenses, permits, zoning regulations, and any other requirements of federal, state or local governments with which the project would be expected to comply, and present status of each;
- E. A list of key personnel and their qualifications as they relate to the project;
- F. An estimate of the type and amount of fuel saved per year from the full operation of the district heating system compared to the type and amount of fuel to be used by the system; and
- G. A copy of the environmental assessment worksheet or environmental impact statement prepared for the project. If neither is required, then the applicant shall submit a statement as to the environmental effects of the project.

6 MCAR § 2.4026 [Temporary] The comprehensive business plan referred to in 6 MCAR § 2.4025 B. [Temporary] shall include all of the following information:

- A. A complete engineering design of the project, as described in 6 MCAR § 2.4027 [Temporary];
- B. A market study of customers of the district heating system defined by the business plan who represent 90 percent or more of the proposed thermal load, as described in 6 MCAR § 2.4028 [Temporary];
- C. A preliminary plan that shows how the system could be expanded to serve other parts of the community;
- D. A complete economic analysis, as described in 6 MCAR § 2.4029 [Temporary], that includes cash flow, income, and balance sheets for a 20-year planning period, and a financing and development plan for the district heating system prepared by a financial consultant;
- E. A certification by the municipality that a bid package for the construction of the project has been completed and is available to the department if requested;
- F. A copy of the standard contract or contracts entered into with customers of the project with a list of customers already under contract, listing the thermal load of each customer presently under contract and comparing the total of the thermal load already contracted with the total load of the project; and
- G. A copy of the contract for the furnishing of the heat source or fuel for the project.

6 MCAR § 2.4027 [Temporary] Engineering design. The complete engineering design of the project referred to in 6 MCAR § 2.4026 A. [Temporary] shall include at least the following information:

- A. An analysis of the proposed piping layout which addresses the areas of optimum service to the total designated area, reliability of service, system temperatures and pressure requirements, thermal and hydraulic operability for normal and emergency conditions, optimum piping configuration to provide service, and flexibility for future expansion;
- B. An analysis of the proposed piping design which addresses the areas of reliability of service, ease of construction, ease of maintenance, installation methods, and specifications and standards; and
- C. An analysis of the heat source design which defines the proposed roles of the following heat sources in the development and the future operation of the system: base load heating plant, peaking plants, large boiler plants in existing buildings, mobile boilers, accumulators and future heat sources such as solid waste, solar, and industrial waste heat.

6 MCAR § 2.4028 [Temporary] Market study. The market study referred to in 6 MCAR § 2.4026 B. [Temporary] shall show detailed information on present fuel consumption or heating demand and the present heating system in each building.

6 MCAR § 2.4029 [Temporary] Economic analysis. The economic analysis referred to in 6 MCAR § 2.4026 D. [Temporary] shall include a cost estimate and expenditure schedule for all transmission and distribution piping; heat source conversion, purchase or rental; operating and maintenance costs, excluding fuel costs; and building heating conversion costs.

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## **PROPOSED RULES**

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6 MCAR § 2.4030 [Temporary] **Resolution in support of project.** The resolution referred to in 6 MCAR § 2.4025 C. [Temporary] must include the pledges the municipality proposes to make to guarantee repayment of the construction loan and evidence of the municipality's financial capability to sponsor the project.

6 MCAR § 2.4031 [Temporary] **Application procedures.**

A. Applications for construction loans under the act and 6 MCAR §§ 2.4021-2.4034 [Temporary] shall be submitted to the commissioner.

B. Applications will be accepted beginning on the date 6 MCAR §§ 2.4021-2.4034 [Temporary] become effective and continuing until either these temporary rules expire or are replaced by permanent rules, whichever occurs first.

C. Ten complete copies of the application shall be submitted to the commissioner.

6 MCAR § 2.4032 [Temporary] **Feasibility assessment.** The commissioner shall review each application as received according to the following feasibility assessment parameters:

A. The eligibility and priorities criteria of Minn. Stat. § 116H.31;

B. The debt service coverage represented by the business plan;

C. The debt service coverage from revenues currently under contract;

D. The total cost of the project;

E. The ratio of the state loan under the act to the total cost of the project;

F. The terms of the contracts with customers; and

G. The total number of customers for the project.

6 MCAR § 2.4033 [Temporary] **Evaluation of application.** Upon reviewing each application, the commissioner shall award points based upon the following criteria.

A. Four points shall be awarded to those applicants that have a debt service coverage of at least 130 based upon the revenues currently under contract.

B. Four points shall be awarded to those applicants that have take-or-pay contracts for at least the term of the state loan under the act. Two points shall be awarded if the contracts are for a term less than the term of the state loan under the act.

C. Two points shall be awarded to those applicants whose total project cost is less than \$5,000,000 or whose state loan under the act would be less than 50 percent of the project's total cost.

D. Two points shall be awarded to those applicants that have 50 customers identified in the marketing study of their business plans and such customers comprise at least 50 percent of the project's thermal load.

6 MCAR § 2.4034 [Temporary] **Recommendation.** The commissioner shall tally the points awarded to each applicant under 6 MCAR § 2.4033 [Temporary] and make recommendations based upon the standards set forth in A. and B.

A. For those applicants who have been awarded a total of no fewer than eight points, the commissioner shall recommend that the revenues of the project be pledged for repayment of the state loan under the act. In addition, the state loan may take a position subordinate to other financing.

B. For those applicants who have been awarded a total of seven or fewer points, the commissioner shall recommend that the applicant pledge additional funds adequate to insure the repayment of the state loan under the act. If additional funds are not available or the applicant chooses not to pledge them, then the applicant may pledge to levy an ad valorem tax of a similar amount.

## **Department of Energy, Planning and Development Energy Division (Minnesota Energy Agency) Alternative Energy Development Section**

### **Proposed Rules for the Administration of the District Heating Bonding Act Regarding Design Loans**

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

Notice is hereby given that the Department of Energy, Planning and Development (Minnesota Energy Agency), hereinafter "department," intends to adopt the above-entitled rules without a public hearing. The Director of the Minnesota Energy

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## PROPOSED RULES

Agency has determined that the adoption of the rules will not be controversial and has elected to follow the procedures set out in Minnesota Statutes § 15.0412, subd. 4h.

In the 1981 session, the Minnesota Legislature enacted the District Heating Bonding Act, Laws of 1981, Chapter 334, hereinafter "act", for the purpose of fostering the establishment and improvement of district heating systems. The Minnesota Energy Agency has developed these rules under the authority of § 1, subdivision 11 of the act, for the purpose of administering a program of loans to municipalities for district heating design.

The objective of the District Heating Design Loan program is to encourage the development and expansion of economically viable district heating systems which have the potential to save energy and/or displace scarce fuels such as petroleum and natural gas.

Temporary rules for design loans were duly promulgated and became effective on September 21, 1981. They are published in the *State Register* of August 3, 1981 (6 S.R. 136) with additions in October 12, 1981 (6 S.R. 641).

Copies of the proposed rules may be obtained by writing or calling Mr. Ronald Sundberg at the address or telephone number given below.

Please be advised that you have an opportunity for the 30-day period following publication of this notice and the proposed rules to submit comments in writing on the proposed rules and to object to the lack of public hearings on the proposed rules. Your written comments or request for hearings should be submitted to the Minnesota Energy Agency, c/o Ronald Sundberg, 980 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101. Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, no public hearing will be held. If seven or more persons request hearings on the proposed rules, the department will order public hearings in accordance with Minn. Stat. § 15.0412, subs. 4-4f. The department may modify the proposed rules if modification is supported by the data and views submitted in written comments and if no substantial change results from the modification.

If no hearing is required, and the department decides to adopt the rules as proposed, or as modified if written comments justify modification, the department will submit to the Attorney General for review of form, legality and substantial change the following documents: this notice with the rules as proposed, the rules as adopted, the order adopting the rules, any written comments received by the department, the department's statement of need and reasonableness supporting adoption of the rules, and any written comments received by the department in response to the earlier notices seeking outside opinions. Any person may request notification of the date the department makes the submission to the Attorney General. If you desire to be so notified, you must inform the department in writing during the 30-day comment period.

The department has prepared a statement of need and reasonableness in support of the proposed rules which is also available from the department by writing to the address indicated above or calling 612/296-9096.

The department's authority to promulgate the proposed rules can be found in Minn. Stat. § 116H.08(a) and Laws of 1981, ch. 334, § 1, subd. 11.

Please be advised that Minnesota Statutes chapter 10A requires each lobbyist to register with the Ethical Practices Board within five days after he/she becomes a lobbyist. Lobbying includes attempting to influence rulemaking by communicating or using others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone 612/296-5615.

February 8, 1982

Michael J. Murphy  
Acting Director

### Rules as Proposed (all new material)

#### 6 MCAR § 2.4011 Definitions.

- A. Applicability. For the purposes of 6 MCAR §§ 2.4011-2.4017 the terms defined in B.-G. have the meanings given them.
- B. Act. "Act" means Laws of 1981, ch. 334.
- C. Commissioner. "Commissioner" means the Commissioner of the Department of Energy, Planning, and Development.

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## PROPOSED RULES

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D. Department. "Department" means the Department of Energy, Planning, and Development.

E. Design loan. "Design loan" means a loan made to fund those activities required to be completed during the final design phase of a district heating system in order to finance and construct the system. These activities include conducting economic feasibility analyses, obtaining heat source commitments and customer contracts, structuring financing, and related management tasks.

F. Preliminary engineering design. "Preliminary engineering design" means a design effort with the objective of estimating district heating design and construction costs within 15 percent of the actual costs.

G. Project. "Project" means a district heating design project.

### 6 MCAR § 2.4012 Authority, purpose, and applicability.

A. Authority. Rules 6 MCAR §§ 2.4011-2.4017 are authorized by Minn. Stat. § 116H.31, subd. 11.

B. Purpose. Rules 6 MCAR §§ 2.4011-2.4017 are promulgated for the purpose of allowing prompt and proper applications for design loans after comprehensive preliminary engineering, economic, and design studies have been completed. Rules 6 MCAR §§ 2.4011-2.4017 set forth the procedures that municipalities must follow to apply for loans and establish the criteria by which the applications are reviewed.

C. Applicability. Rules 6 MCAR §§ 2.4011-2.4017 apply to the department and to any municipality applying for design loans under the act.

6 MCAR § 2.4013 Application procedure. Applications for design loans under the act and 6 MCAR §§ 2.4011-2.4017 shall be submitted to the commissioner. Ten complete copies shall be submitted. Applications will be accepted beginning on the date 6 MCAR §§ 2.4011-2.4017 become effective.

### 6 MCAR § 2.4014 Application contents.

A. Information required. An application shall contain the following information:

1. Name, address, and telephone number of the responsible official of the municipality;
2. A comprehensive business plan for the project as specified in 6 MCAR § 2.4015;
3. A resolution in support of the project from the governing body of the municipality, which must include the pledges the municipality proposes to make to guarantee repayment of the design loan;
4. A resolution or letter of intent from the proposed owner or operator of the district heating system indicating that he would expect to proceed with construction if the results of the design and final feasibility project are consistent with the preliminary feasibility study;
5. Identification of all licenses, permits, zoning regulations, and other requirements of federal, state, or local governments with which the project would be expected to comply, and the present status of each;
6. A list of key personnel and their qualifications as they relate to the project;
7. An estimate of the type and amount of fuel to be saved per year from the full operation of the district heating system compared to the type and amount of fuel to be used by the system;
8. A negative declaration of the need for an environmental impact statement from a completed environmental assessment worksheet.

B. Waiver of negative declaration. The commissioner may waive the requirement of A.8. upon written request by the municipality. This request will be considered as part of the application and must contain the municipality's rationale in support of a waiver.

### 6 MCAR § 2.4015 Contents of comprehensive business plan.

A. Minimum contents. The comprehensive business plan submitted under 6 MCAR § 2.4014 A.2. must contain no less than the information specified in B.-H.

B. Preliminary engineering design. A preliminary engineering design of the project must include the following information.

1. An analysis of the proposed piping layout must address optimum service to the total designated area; reliability of service; system temperatures and pressure requirements; thermal and hydraulic operability for normal and emergency conditions; optimum piping configuration to provide service; and flexibility for future expansion.
2. An analysis of the proposed piping design must address reliability of service; ease of construction; ease of maintenance; installation methods; and specifications and standards.
3. An analysis of the heat source design must define the proposed roles of the following heat sources in the development

and the future operation of the system: base load heating plant; peaking plants; large boiler plants in existing buildings; mobile boilers; accumulators; and future heat sources such as solid waste, solar, and industrial waste heat.

C. Market study. The comprehensive business plan must include a market study of customers who represent 90 percent of the proposed thermal load of the district heating system defined by the business plan. This study must show detailed information on present fuel consumption or heating demand and the present heating system in each building.

D. Preliminary expansion plan. A preliminary expansion plan must show how the system could be expanded to serve other parts of the community.

E. Preliminary economic analysis. A preliminary economic analysis must include a preliminary financing and development plan for the district heating system and cash flow, income, and balance sheets for a 20-year planning period. This analysis must also contain a cost estimate and expenditure schedule for all transmission and distribution piping; heat source conversion, purchase, or rental; operating and maintenance costs excluding fuel costs; and building heating conversion costs.

F. Letters of intent to purchase heat. The applicant shall submit copies of letters of intent to purchase heat supplied by the project, from major customers representing at least 50 percent of the thermal load.

G. Letter of intent to furnish heat. The applicant shall submit a copy of a letter of intent to furnish heat, from the owner of the heat source or the proposed system owner or operator.

H. Engineering opinion. The business plan requires an opinion by a registered professional engineer that the system described by the preliminary designs is technically feasible and that the preliminary engineering design and cost estimate is within standard engineering practice.

6 MCAR § 2.4016 Application review criteria. The commissioner shall review each application as it is received according to the eligibility and priority criteria of Minn. Stat. §. 116H.31; the sophistication and reasonableness of the technical approach as detailed in the application; the experience and qualifications of the applicant as they relate to the project; the project organization and personnel assignment; and the estimated cost of the project.

6 MCAR § 2.4017 Expenditures not required. Rules 6 MCAR §§ 2.4011-2.4017 do not require expenditure of money not available.

## **Minnesota Pollution Control Agency Solid and Hazardous Waste Division**

### **Proposed Rules Regarding the Administration of the Minnesota Solid Waste Management Planning Assistance Program**

#### **Notice of Withdrawal of Previous Proposed Amendments and Intent to Adopt a Rule without a Public Hearing**

Notice is hereby given that the Minnesota Pollution Control Agency (hereinafter "agency") withdraws its previously proposed amendments to the rule published at page 630 of the October 12, 1981, *State Register* (6 S.R. 630) and identified as "6 MCAR § 4.6085 Rule for the administration of the Minnesota solid waste management planning assistance program" at page 631 of that *State Register*.

Notice is hereby given that the Minnesota Pollution Control Agency intends to adopt revised amendments to the above-entitled rule without a public hearing. The agency has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h.

The proposed amendments will enable the agency to administer the Minnesota Solid Waste Management Planning Assistance Program in the current and future bienniums. Authority for the adoption of this rule is contained in Minn. Stat. § 115A.42.

The agency has prepared a statement of need and reasonableness that describes the agency's reasons for each provision of the proposed amendments and identifies the data and information relied upon by the agency to support the proposed rule. Copies of the statement of need and reasonableness and the proposed amendments are available and may be obtained by contacting:

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## PROPOSED RULES

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Mr. Edward R. Meyer  
Division of Solid and Hazardous Waste  
Minnesota Pollution Control Agency  
1935 West County Road B2  
Roseville, Minnesota 55113  
Telephone: (612) 297-3362

All interested or affected persons have until March 24, 1982 to submit written comments on the proposed amendments. The proposed rule may be modified if the data and views submitted to the agency in writing warrant modifications and the modifications do not result in a substantial change in the proposed language.

If, during the comment period, seven or more persons submit to the agency a written request for a hearing on the proposed amendments, the agency shall proceed to schedule a public hearing before adopting the proposed rule. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subds. 4-4f.

Persons who wish to submit comments or to request a public hearing should submit such comments or requests to Mr. Edward Meyer at the address given above. The agency requests that if a person desires a public hearing, that when submitting a written request for a hearing, the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

In the event a hearing is required, a new notice of hearing will be mailed out and published in the *State Register*. If no hearing is requested, the agency will consider the adoption of the proposed amendments at the April, 1982, agency meeting or as soon thereafter as possible. Persons who wish to receive a copy of the final rule as proposed for adoption by the agency should submit a written statement of such desire to Mr. Meyer.

After adoption of the final rule by the agency, without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Mr. Edward Meyer.

Please be advised that 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 as any individual:

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

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

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

February 3, 1982

Louis J. Breimhurst, Executive Director  
Minnesota Pollution Control Agency

### Rule as Proposed

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

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

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

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

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

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

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

- a. That the applicant, cost, and project specified in the grant application ~~is~~ are grant eligible;
- b. ~~That the costs specified in the grant application are grant eligible; and,~~ That the application deadlines are met; and
- c. ~~That the project specified in the grant application is grant eligible.~~ That sufficient funds are available.

The criteria the agency shall use in determining the grant eligibility of the applicant ~~is~~ are set out in ~~section D.1. of this rule~~; the criteria the agency shall use in determining the grant eligibility of the costs ~~is~~ are set out in ~~section D.2. of this rule~~; ~~and,~~ the criteria the agency shall use in determining the grant eligibility of the project ~~is~~ are set out in ~~section D.3. of this rule~~; and the criteria the agency shall use in determining compliance with deadlines are set out in E.1., 4., 5., and G.2.

C. Definitions.

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

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

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

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

(3) An assessment of specific opportunities to reduce the need for land disposal through the use of waste reduction and resource recovery †, as defined in Minn. Stat. § 115A.03, subd. 27 ~~(1980)~~; including and an assessment of:

- (a) The alternative degrees of reduction achievable;†
- (b) The comparative costs of the alternatives ~~(†, including capital and operating costs)†~~;
- (c) The effects of the alternatives on the cost to generators of the waste.

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

b. Establish a detailed siting procedure and development program to assure the orderly location, development, and financing of new or expanded solid waste facilities and services sufficient for a prospective ten year period, including which procedure and program shall be consistent with all applicable rules of the agency and shall include:

- (1) Estimated costs and implementation schedules;†
- (2) Proposed procedures for operation and maintenance;†
- (3) Estimated annual costs and gross revenues; and
- (4) Feasible proposals for the use of facilities after they are no longer needed or useable; ~~and,~~

c. ~~Address~~ Include an evaluation and recommendation of specific options, consistent with all applicable rules of the agency, for the resolution of conflicting, duplicative, or overlapping local management efforts, including the possible establishment of joint powers management programs or waste management districts; and,

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

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

3. "Director" means the executive director and chief executive officer of the agency or a person expressly designated by the director to discharge a duty or responsibility of the director.

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## PROPOSED RULES

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

5. "Landfill" means a sanitary landfill or a modified landfill which has a valid permit issued by the agency.

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

7. "Population growth rate" means the rate at which population in a proposed study area either increased or decreased during the decade between 1970 and 1980. The director shall determine the population growth rate of a proposed study area by determining the difference in population in the proposed study area, as reported in the 1970 and 1980 United States Census Bureau data, dividing this difference by the 1970 population of the proposed study area and multiplying this result by 100. The growth rate will thus be expressed as a percentage.

8. "Project manager" means an employee of the grantee who is given the responsibility and the authority to direct and coordinate all aspects of the project as defined in the contractual agreement between the grantee and the agency. The project manager shall assume the responsibility for performing all contract and project management functions.

~~6- 9.~~ "Political subdivision" has the meaning given it in Minn. Stat. § 115A.03, subd. 24 ~~(1980)~~.

~~7- 10.~~ "Regional development commission" has the meaning given it in Minn. Stat. § 115A.03, subd. 26 ~~(1980)~~.

### D. Grant eligibility criteria.

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

#### 2. Eligible costs.

a. The following costs are grant eligible:

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

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

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

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

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

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

(7) Overhead costs.

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

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

(a) Except as provided in (5), the agency shall award grants to cover 90 percent of the eligible costs specified in the grant application or the percentage of eligible costs requested in the grant application, whichever is less; and;

(b) The grantee shall ~~fund~~ assume the responsibility for the remaining costs of completing the planning efforts.

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

(a) Except as provided in (5), the agency shall award grants to cover 50 percent of the eligible costs specified in the grant application or the percentage of eligible costs requested in the grant application, whichever is less; and;

(b) The grantee shall ~~fund~~ assume the responsibility for the remaining costs of completing the planning efforts.

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

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

(5) If available funds are not adequate to meet the funding requests of all applicants assigned to group number one under G.3.b., the agency shall reduce the state share of the eligible costs sufficiently to enable all applicants assigned to group number one to receive funding, but the size of the grant awards in (1)(a) and (2)(a) shall not be less than 60 percent and 33 percent, respectively. If available funds are not adequate under this reduced funding level to meet the funding requests of all applicants assigned to group number one under G.3.b., grants shall be awarded at the reduced amount in the order established under G.3.c.

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

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

### 3. Eligible projects.

a. The agency shall consider grant eligible all projects which are reasonably designed to result in the development and publication of an acceptable plan, as defined in section C. 1. of this rule. A project shall not be considered eligible if it is proposed to include a study area for which an acceptable plan has previously been approved by the agency under this grant program.

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

### E. Grant application procedures.

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

~~a. As soon as possible and no later than April 15, 1981,~~ A grant applicant shall submit a grant application to the agency no later than 4:30 p.m. on the first Monday of August of each year. The application must be received by the agency by this deadline or must have a postmark dated no later than the Friday immediately preceding the deadline in order to qualify as meeting that deadline.

~~b. 2. The grant application to be submitted to the agency shall include all the information and documentation set out in Part F. of this rule.~~

~~e. 3. Upon receiving a grant application, the director shall promptly review the application and shall make a determination as to~~

~~(1) the eligibility of the applicant, costs, and project specified in the preliminary application;~~

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

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

~~d. 4. Within two weeks after receiving the application, the director shall notify each applicant as to the director's determinations of the following:~~

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

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

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

(a) (1) The director shall note the inadequacies in the application and shall so notify the applicant;

(b) (2) The applicant shall have an opportunity to cure the inadequacies noted by the director; ~~except that,~~ However, no information received by the agency after May 1, 1981, the 42nd day beyond the appropriate deadline in 1., except as provided in 5., shall be considered by the director agency in determining the grant eligibility of the applicant, costs, or project.

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

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

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

~~2. For grants to be awarded during all fiscal years other than that described in paragraph E.1.:~~

~~a. Preliminary grant applications. [reserved].~~

~~b. Final grant applications. [reserved].~~

5. If the agency exceeds the two-week review period in 4. for an application, the 42-day periods specified in 4.c.(2) and G.2. shall be extended for only that application by the number of days equal to the number of review days in excess of two weeks.

### F. Grant application content.

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

~~a.~~ 1. The ~~name(s)~~ name of each political ~~subdivision(s)~~ subdivision making the grant application;

~~b.~~ 2. Resolutions from each political subdivision named on the application which:

(+) a. Demonstrate the political subdivision's desire to make the grant application and interest in the planning efforts described in the grant application; and;

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

~~e.~~ 3. In the case of a regional development commission, resolutions from each of the counties represented by the regional development commission, which demonstrate the counties' interest in and support for the planning efforts described in the grant application;

~~d.~~ 4. The ~~name(s) and address(es)~~ name, address, and qualifications of the project ~~manager(s)~~ manager;

~~e.~~ 5. The total project cost;

~~f.~~ 6. The amount of grant funding requested;

~~g.~~ 7. The amount and sources of all other funding contributions, including the amount of funds to be contributed by the applicant;

~~h.~~ 8. The regional boundaries of, and the population in, the area to be considered in the planning study;

9. A list of all the landfills which receive solid waste from each of the counties in the proposed study area and the percent of each county's refuse which is currently being disposed at each of the landfills;

~~i.~~ 10. A work plan which provides the following information and details:

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

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

- (3) c. A breakdown of the number of work hours needed to complete each of the tasks specified in ~~paragraph (i)(2)b.~~;
- (4) d. A breakdown of all the costs associated with completing each of the tasks specified in ~~paragraph (i)(2)b.~~, including an explanation of how each cost was calculated;
- (5) e. A breakdown of the staff, consultants, and units of government associated with completing each of the tasks specified in ~~paragraph (i)(2)b.~~;
- (6) f. A breakdown of the amount of time needed to complete each of the tasks specified in ~~paragraph (i)(2)b.~~; and
- g. An overall time schedule for the project showing estimated dates of completion of the tasks specified in b.; and
- (7) h. A description of the program to be completed by the applicant to ensure public participation in the planning efforts.

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

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

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

- a. Grants shall be awarded to eligible grantees, to the extent funding is available, on a first come, first serve basis.
- b. The agency shall make these first come, first serve determinations as follows:

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

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

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

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

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

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

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

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

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

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

1. The agency shall review all applications received prior to the appropriate deadline specified in E.1., and shall exclude from consideration all applications received after that deadline.

2. Only grant applications considered final pursuant to E.4.a. and E.4.c.(2) as of 4:30 p.m. on the 42nd day following the application deadlines specified in E.1., except as provided in E.5., shall be eligible for a grant award.

3. The agency shall assign a priority ranking to each of the applications which are eligible for a grant award under 2. This priority ranking shall be made pursuant to a.-c.

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a. The agency shall make the lists and determinations specified in (1)-(5).

(1) The agency shall make a list of the counties proposed to be studied under the grant eligible applications identified under 2.

(2) The agency shall make a list of the landfills available to and being used by each county identified in (1).

(3) The agency shall determine whether the remaining permitted landfill capacity available to and being used for a majority of the refuse from each of the counties identified in (1) is greater than or equal to five years or is less than five years. An applicant may provide recent, reliable data to the agency to assist him in making these determinations.

(4) The agency shall determine whether the location of each of the landfills identified in (2) is environmentally undesirable. The agency shall determine that a landfill's location is environmentally undesirable if the landfill meets one or more of the following criteria:

(a) The landfill is located less than 1,000 feet from the normal high water level of a lake, pond, or flowage;

(b) The landfill is located less than 300 feet from a stream;

(c) The landfill is located within a 100 year flood plain;

(d) The landfill is located within a wetland; and

(e) The landfill is located on Karst bedrock.

An applicant may provide recent, reliable data to the agency to assist him in making these determinations.

(5) After making the determinations specified in (4), the agency shall determine which counties contribute a majority of their solid wastes to landfills that are considered to be in environmentally undesirable locations. An applicant may provide recent, reliable data to the agency to assist him in making these determinations.

b. The agency shall divide the grant applicants into two groups. All applicants whose study areas contain one or more counties that contribute a majority of their solid wastes to landfills having less than five years of permitted landfill capacity remaining, as determined under a.(3), or that contribute a majority of their solid wastes to landfills that are determined to be in environmentally undesirable locations, as determined under a.(5) shall be placed in group number one. All other applicants shall be placed in group num two.

c. The agency shall determine the population growth rate within each applicant's proposed study area using 1970 and 1980 United States Census Bureau data. The agency shall assign a priority ranking to applicants in groups one and two as provided in (1) and (2).

(1) First, the agency shall divide the applicants in group one and in group two into subgroups. Subgroup 1 shall contain the applications for planning by a regional development commission, for joint planning by two or more contiguous counties, and for joint planning by political subdivisions located in two or more contiguous counties. Subgroup 2 shall contain all other applications.

(2) Funds shall be awarded, on a priority basis, in the following order. In all cases priority shall be determined by growth rate, with the highest priority within each subgroup being given to the applicant with the highest growth rate:

(a) Group 1, subgroup 1;

(b) Group 1, subgroup 2;

(c) Group 2, subgroup 1; and

(d) Group 2, subgroup 2.

4. The agency shall award grants to applicants in the order of the priority ranking in c. No awards shall be made to any applicant in group two until all applicants in group one have been awarded grants.

5. Once the agency has determined which grantees will receive grants, the agency shall proceed as follows:

a. The agency shall provide a complete listing of grant awards and of applicant rankings to each applicant; and

b. Within three weeks of the notification required by a., the agency shall draft a grant for each applicant which is to receive a grant in accordance with the requirements and conditions set out in H.

**H. Grant agreement.**

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

2. The grant agreement shall establish the term of the grant. All grants awarded under this rule shall have a maximum term of one year, unless the agency determines for a specific grantee that a longer term is necessary due to circumstances beyond the control of the grantee in order to produce an acceptable plan. The agency shall then set the term of the grant.

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

4. The grant agreement shall include a payment schedule. This payment schedule shall provide for reimbursement of stated travel costs in a manner described in the grant agreement and shall require that ~~ten~~ the last 25 percent of ~~each payment made under the grant agreement (the total grant award, except reimbursable travel costs),~~ be retained by the agency until the director determines that the report submitted under the grant is an acceptable plan. If the director determines that a report is deficient, the director shall notify the grantee of the deficiency. The agency shall pay the withheld ~~ten~~ 25 percent of the grant as soon as the deficiency is corrected and the director determines that the report is an acceptable plan.

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

**I. Apportionment**

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

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

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

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

2. For grants to be awarded during all fiscal years other than that described in paragraph 1.1., the agency shall apportion funds allocated to it by the legislature for the grant programs set out in Articles V and VI of the Waste Management Act, Minn. Stat. § 115A.42 through 115A.54 (1980), as follows: ~~{reserved}~~.

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

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# PROPOSED RULES

## Board of Psychology

### Proposed Rules Relating to Rules of Conduct, General Waivers, and Variances, and Amendments Relating to Application for Licensure, Requirements for Professional Experience, Waivers From Examination, and Collaboration

#### Notice of Hearing

A public hearing concerning the proposed new rules and amendments to the rules captioned-above will be held in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414, on March 26, 1982, commencing at 9:30 a.m. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to George Beck, Hearing Examiner, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone: (612) 341-7601, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. All such statements will be entered into and become part of the record. For those wishing to submit written statements or exhibits, it is requested that at least two (2) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411 to 15.0417, 15.052 (1980), and by 9 MCAR §§ 2.101 to 2.113 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Twenty-five (25) days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and at the Office of Administrative Hearings. This statement of need and reasonableness will include all of the evidence which the agency intends to present at the hearing to justify both the need for and the reasonableness of the proposed rule. However, additional evidence may be submitted in response to questions raised by interested persons. You are therefore urged to both review the statement of need and reasonableness before the hearing and to attend the hearing. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

A copy of the proposed rules is attached hereto and made a part hereof. The statutory authority of the Minnesota Board of Psychology to adopt these rules is contained in Minn. Stat. §§ 148.98, 148.90, subd. 2(4), and 15.0412, subd. 1(a)(1980).

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

Minn. Stat. ch. 10A.03, subd. 1 (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, St. Paul, Minnesota 55155, telephone: (612) 296-5615.

February 8, 1982

Lois Mizuno, Executive Secretary  
Board of Psychology

#### Rules as Proposed

~~Psych~~ 7 MCAR § 10.001 General definitions.

(a) "Law" means Minnesota Statutes 1973, Sections 148.88 through 148.99, creating a Board to license and

## PROPOSED RULES

regulate the private practice of psychology and the use of the title "psychologist". For the purposes of 6 MCAR §§ 10.001-10.009, the following terms have the meanings given them.

- (b) A. Board. "Board" means the Minnesota ~~State~~ Board of ~~Examiners of Psychologists~~ Psychology.
- (c) ~~Licenses Issued. Licensed Psychologist and Licensed Consulting Psychologist.~~
- (d) ~~"Original License", when used relative to renewal of lapsed license, shall mean the license which has lapsed.~~
- (e) ~~"Year", when used in connection with fees for initial license, means the period between the issuance of the initial license and the last day of the twelfth calendar month subsequent to the date of issuance.~~
- (f) ~~"Waiver" is the granting of a license without examination, conditions for which are defined in the Law.~~

B. Collaboration, collaborative contact. "Collaboration" or "collaborative contact" means consultation at least once each year between a licensed psychologist and a licensed consulting psychologist with regard to any issues arising in the practice of psychology. "Collaboration" or "collaborative contact" does not mean supervision and does not involve the supervisory responsibilities defined in I.

C. Area of competence. "Area of competence" means a specific psychological service, technique, method, or procedure in which the psychologist through education, training, or experience has gained sufficient proficiency to be able to provide it to the public with little or no supervision.

D. Informed written consent. "Informed written consent" means a written statement signed by the person making the statement which authorizes a psychologist to engage in activity which directly affects the person signing the statement. The statement must include a declaration that the person signing the statement has been told of and understands the purpose of the authorized activity.

E. Licensee. "Licensee of the board" or "licensee" means either a licensed psychologist or a licensed consulting psychologist.

F. Private information. "Private information" means any information, including client records, revealed during a professional relationship between a psychologist and a client.

G. Professional relationship. "Professional relationship" means the association between a psychologist and a person or entity for whom psychological services are sought which exists when the psychologist performs for that person or entity any of the functions described in Minn. Stat. § 148.89, subd. 1.

H. Psychologist. "Psychologist" means a licensee of the board.

I. Supervision. "Supervision" means taking full professional responsibility for training, work experience, and performance in the practice of psychology of a supervisee, including planning for and evaluation of the work product of the supervisee, and including face-to-face contact between the supervisor and supervisee in at least ten separate hourly sessions per quarter.

J. Test. "Test" means any instrument, device, survey, questionnaire, technique, scale, inventory, or other process which is designed or constructed for the purpose of measuring, evaluating, assessing or describing personality, behavior, traits, intelligence, aptitudes, attitudes, skills, values, interests, ability, or other psychological or emotional characteristics of individuals.

K. Variance. "Variance" means board authorized permission to comply with a rule in a manner other than that generally specified in the rule.

L. Waiver. "Waiver" means board authorized permission not to comply with a rule.

### 7 MCAR § 10.002 General requirements for licensure.

A. Licensure process. The process of licensure by the board is divided into two separate parts:

1. admission to examination; and

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## **PROPOSED RULES**

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### 2. admission to licensure.

#### B. Requirements for admission to examination. In order to be admitted to examination an applicant must:

1. file with the board a completed notarized application for admission to examination which includes an affirmation that the statements made on the application are true and correct to the best of the knowledge and belief of the applicant, and which is accompanied by the current nonrefundable examination application fee;
2. provide for transcripts of all graduate work, including verification of the degree granted, to be certified directly to the board from the institution granting the degree; and
3. for an application based upon the equivalent of a master of arts or science degree in a doctoral program, provide for that equivalency to be verified in writing directly to the board by an official of the institution attended.

C. Admission to examination. An applicant shall be admitted to the first regularly scheduled objective part of the examination occurring 40 days or more after the applicant has met the requirements of B., unless admission is denied under D.

D. Denial of admission to examination. Admission to examination shall be denied to an applicant who has not met the education requirements in 7 MCAR § 10.003. An applicant who is denied admission to examination shall be informed in writing of the denial and the reasons for it. An application submitted after denial is a new application which must be accompanied by the current examination application fee.

E. Requirements for licensure. To be eligible for licensure the applicant must meet the following requirements in addition to those in B.:

1. file with the board a notarized application for licensure, which includes an affirmation that the statements made in the application are true and correct to the best knowledge and belief of the applicant and which is accompanied by the current licensure application fee;
2. have completed two years of post degree employment as stated in G. and 7 MCAR § 10.0004;
3. state at least one area of competence and have written endorsements from at least two qualified persons, as stated in H., for each area of competence stated;
4. have performed satisfactorily on both parts of the examination listed in 7 MCAR § 10.005;
5. be of good moral character and not have engaged in conduct prohibited by 7 MCAR § 10.008; and
6. for an application for licensure as a licensed psychologist, file an agreement to collaborate signed by a licensed consulting psychologist.

F. Concurrent applications. An applicant may file both the application for admission to examination and the application for licensure at the same time if the employment requirements in G. and 7 MCAR § 10.004 have been met.

G. Supervised employment. The application for licensure shall include the setting, nature and extent of the supervised employment, the time period involved, the number of hours per week engaged in professional duties, and the name and qualifications of each supervisor.

H. Requirements for endorsement. To qualify as an endorser a person listed on the application for licensure must be a licensee of the board, a person who is licensed to practice psychology by another state whose licensure standards are similar to the standards of this state, or a person whose education and experience meet the licensure standards of Minn. Stat. § 148.91 and 7 MCAR §§ 10.001-10.009. An employee of an applicant may not be an endorser of that applicant. An endorser must have firsthand knowledge of the area of competency endorsed. A current member of the board may not be an endorser.

An applicant who has not received sufficient endorsements on a stated area of competence may submit the names of additional endorsers or an amended application with the area of competence deleted.

I. Adding areas of competence. A licensee may add an area of competence at any time if the added area of competence is documented as required in the application for licensure.

J. Inquiries regarding applicants. The board may make inquiries when there is a question as to whether an applicant meets the requirement of E.5.

K. Denial of licensure. An applicant who fails to meet all the requirements in E. shall be denied licensure. An applicant who

is denied licensure shall be informed in writing of the denial and the reason for it. An application submitted following denial is a new application which must be accompanied by the current licensure application fee.

~~Psych 3~~ MCAR § 10.003 Educational ~~Qualifications~~ requirements for ~~Licensing~~ licensure.

(a) ~~The Doctorate Degree in Pshehology shall mean a Doctorate Degree offered by a Department of Psychology A.~~ Educational requirement for licensed consulting psychologists. The educational requirement for licensure as a licensed consulting psychologist is a doctorate obtained in an institution accredited by a regional accrediting association to ~~offer a Doctorate Degree.~~ grant a doctorate, offered through:

1. a department of psychology; or

2. an academic department or unit other than a department of psychology, with a major such as educational psychology, child psychology, counseling psychology, or industrial psychology.

(b) B. Other doctorates accepted. The board shall ~~consider Doctorate Degrees offered by academic units~~ accept a doctorate other than a ~~Department of Psychology~~ provided those listed in A. if:

(1) ~~The aforementioned academic unit is in, or formally connected with,~~ 1. the doctorate is obtained from an institution accredited by a regional accrediting association to ~~offer the Doctorate Degree, and,~~ grant the doctorate;

(2) 2. the dissertation for the degree is; ~~in the judgment of the Board,~~ psychological in topic and method and content, and; according to the following criteria:

a. the topic shall fall within the list of psychological topics included in the table of contents of all editions of the "Annual Review of Psychology," up to and including the 1981 edition, and shall have the potential to directly impact upon the body of knowledge in the field of psychology; and

b. the method shall include at least one of the following: experimental manipulation of psychological variables; correlational or statistical method, using data collected by observations made by oneself or other persons; case study; creation of theory based on analysis of data obtained by oneself or other persons, including conceptual analysis; introspection; or psychohistory; and

(3) 3. for a person seeking licensure on the basis of a doctorate earned before January 1, 1984, at least half of the ~~course~~ number of credits ~~required~~ completed for the degree, excluding dissertation credits, have been successfully earned in graduate courses which are; ~~in the judgment of the Board,~~ predominantly psychological in content.

For any other person, at least two-thirds of the number of credits completed for the degree, excluding dissertation credits, have been successfully earned in graduate courses which are predominantly psychological in content.

~~Such Credits may, in part, be earned in~~ for post-doctoral course work earned within five years after receiving the doctorate may be used in part to meet the requirements in 3.

(c) C. ~~The Master's Degree in Psychology is defined as the~~ Educational requirement for licensed psychologists. The educational requirement for licensure as a licensed psychologist is a master of arts or science ~~offered by a Department of Psychology~~ degree, including a master equivalent in a doctoral program, obtained in an institution accredited by a regional accrediting association to ~~offer the master's~~ grant a doctorate or a master of arts or science degree, offered through:

1. a department of psychology; or

2. an academic department or unit other than a department of psychology, with a major such as educational psychology, child psychology, counseling psychology or industrial psychology.

(d) D. Other degrees accepted. The board shall ~~consider Master's Degrees offered by academic units~~ accept a master of arts or science degree other than a ~~Department of Psychology~~ provided those listed in C. if:

(1) 1. the degree is obtained from an ~~academic unit in an~~ institution accredited by a regional accrediting association to ~~offer grant a doctorate or a master or doctoral~~ of arts or science degree in psychology, or an academic unit that is similar, in the

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judgment of the Board, to a department of psychology with respect to its faculty, degree programs, and curriculum, provided that said academic unit is accredited by a regional accreditation association to offer the master's or doctoral degree. In either case, it shall be further required that:

2. the thesis, if it is a degree requirement, is psychological in topic and method according to the criteria listed in B.2.; and

(2) 3. at least two-thirds of the number of credits required for the degree, excluding dissertation thesis credits, have been successfully earned in graduate courses which are in the Board's judgment, predominantly psychological in content.

Credits for post master course work earned within five years after receiving the degree may be used in part to meet the requirements in 3.

(e) The "equivalent of a master's degree in a doctoral program with a major in psychology" shall meet the same criteria as specified in both sections (d-1) and (d-2) above.

(f) The accreditation of the institution(s) from which the applicant received his/her degree(s) shall be evaluated by the Board with respect to the time of the applicant's affiliation with such institution(s). The same shall apply to other institutional aspects stipulated in Section Psych 3.

E. Accreditation. For a degree to meet the standards for licensure, the institution must be accredited at the time the degree is granted.

(g) F. Degrees from foreign institutions. A degree from a foreign university will institution shall be accepted provided that, in the Board's judgment, if the institution meets standards equivalent to those held by required for accreditation of a domestic institutions accredited by a regional accreditation association, and other provisions of this section (Psych 3) are met institution.

### ~~Psych 4~~ 7 MCAR § 10.004 Professional Experience employment.

(a) A. Employment requirements. To meet the requirements for "professional experience", an applicant's experience employment, the employment of the applicant must:

(1) Have involved 1. involve the application of psychological principles in the description, prediction and modification of human behavior and emotional adjustment, including but not restricted to such practices as: psychological assessment, including such functions as intelligence, personality, aptitude, and attitude appraisal; psychological treatment of persons who have adjustment problems; psychological counseling and guidance; conducting behavioral research; and teaching of psychology; and;

2. be under the supervision of a licensee of the board or a person whose education and experience meet the standards for licensure imposed by Minn. Stat. § 148.91 and 7 MCAR §§ 10.001-10.009 and who shall be competent in the areas of practice in which supervision is provided. The private practice of psychology for a fee in this state is not allowed prior to licensure and shall not be credited, except that a licensed psychologist seeking licensure as a licensed consulting psychologist may engage in the private practice of psychology for a fee and need not require supervision unless the licensee is gaining competence in an area other than those already documented. The private practice of psychology in another state shall be credited only if engaged in after licensure by that state; and

(2) Have been 3. be performed competently at a professional level as judged by the supervisor.

(b) B. As a general criterion, such experience will Employment criterion. Employment shall include tasks and judgments which depend upon the application of skill and/or or knowledge made available to the applicant acquired during his/her formal education in psychology.

(c) No experience that is judged by the Board to be of a primarily clerical, routine, or repetitive nature will fulfill the general criterion specified in (b) above. C. Delegation of training. The supervisor may not transfer supervisory responsibility. The supervisor may delegate training in specific skills to specialists who need not be psychologists.

(d) No experience which is offered to satisfy one provision of the Law may be simultaneously offered to satisfy any other provisions of the Law. For example, experiences D. Degree requirement experiences. Experiences which are part of the required as preparation for the Ph.D. master or doctoral degree will be applicable only to the "doctorate degree requirements" and, such as pre-degree internships, assistantships, associateships, clerkships and practica, may not be simultaneously offered to satisfy the "experience" employment requirement for either level of licensure.

(e) E. Completion of degree requirements. Professional experience acquired by the applicant between the time he/she fulfilled all requirements for his/her terminal the degree were met and the time of the actual conferral of the degree may be credited toward the experience employment requirements for licensing, provided that licensure if the date of completion of all

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degree requirements is verified directly to the board in writing by a responsible academic or administrative official. Such verification must come directly to the Board from the academic official.

(f) No experience of any kind gained prior to the completion of all requirements for the Master's degree in psychology or its equivalent will apply to the provisions of the Law.

(g) Pre-doctoral internship, assistantships, associateships, personal therapy, enrollment in practicum and other experiences that are primarily preparatory to the practice of psychology will not constitute "professional experience".

(h) In the event that the experience being offered can be considered the performance of some other profession and/or discipline as well as psychology, the Board will consider such experience acceptable if it meets such criteria as, but not limited to, the following:

(1) The applicant was primarily identified with the title "psychologist" or some variant while obtaining such experience, and;

(2) The applicant used knowledge and technology acquired during his/her professional education as a psychologist.

(i) "A year of professional experience" shall mean twelve months, including

F. Time requirement. To meet employment requirements, the applicant shall have completed 24 months of full-time employment, or their equivalent in part-time employment, under supervision as described in A., with regularly scheduled vacation periods, during which the applicant was employed on a full-time basis and holidays considered as days worked.

(1) In the case of academic employment, "year" shall mean the period normally associated with the full-time employment at the employing institution.

(2) Full-time employment for self-employed applicants shall mean consists of at least 1800 hours during a twelve (12) 12-month period.

(3) G. Part-time employment credited. Part-time employment experience credit shall be determined credited by the board on a pro-rated basis, if the part-time employment consists of at least a three-month, quarter-time period at any particular agency or facility.

### ~~Psych 6~~ 7 MCAR § 10.005 Examinations.

(a) ~~Examination dates will~~ A. Announcement of examination. The date of the written, objective part of the examination shall be announced by the board. The examination schedule will announcement shall establish: time(s), place(s), the amount of the examination application fee and the final date by which the Board must receive the applicants' completed documentation for the application for Licensure form, and other pertinent information and/or instructions admission to examination must be completed to qualify for the announced examination.

B. Two parts to examination. The examination is composed of two parts:

1. a written, objective part designed and scored by a professional examination service; and

2. an oral part conducted by members of the board or its duly authorized representatives after the application for licensure has been accepted by the board.

(b) ~~if an~~ C. Notification to admitted applicants. The board shall notify in writing each applicant who has been admitted to either part of the examination. The notice shall state the date and time the applicant is scheduled to be examined. An applicant who fails to appear for the scheduled examination, he/she will at that time shall forfeit his/her the application fee for the examination so scheduled unless he/she provides the Board within fifteen (15) 15 days with an explanation acceptable to the Board after that date the applicant submits a written request for a waiver.

(c) Application for any required examination will be denied or deferred if in the Board's judgment, the applicant lacks the required education and/or experience.

(1) If application for examination is denied or deferred, the applicant shall be notified in writing within thirty (30) days after the Board's action, and shall be apprised of the reasons for the Board's action.

(d) The examination will be composed of two (2) sections:

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~~(1) A written, objective section, and,~~

~~(2) An oral examination conducted by the Board or its duly constituted representative(s).~~

~~(3) D. Satisfactory performance on examination. In order to qualify for licensure, the applicant will be required to must perform satisfactorily on the two sections both parts of the examination.~~

~~(e) The Board will notify the applicant in writing, as soon as possible, of the results of the examination.~~

~~1. An applicant who has performed satisfactorily with respect to the level of licensure sought on the objective part of the examination, either in another state or for another level of licensure, shall be considered as having met the requirements of this rule with respect to the objective part of the examination.~~

~~2. An applicant who has performed satisfactorily on the oral part of the examination for another level of licensure shall be considered as having met the requirements of this rule with respect to the oral part of the examination.~~

~~(f) Persons E. Reexamination permitted. An applicant determined by the Board not to have performed satisfactorily on a part of the examination may reapply for the next examination by the Board. The Board may at its discretion, require reexamination on any or all parts of the examination and, upon payment of the current applicable fee, be reexamined on the part for which performance was not satisfactory.~~

### ~~Psych 7 7 MCAR § 10.006 Licenses, license renewal.~~

~~A. Display of license. A license shall be displayed on the premises of the primary location of the professional practice of the licensee.~~

~~B. Term of license. A license is valid for the period beginning with the date on which the license is granted or reissued after suspension and ending two years later on the last day of the month in which the license is granted or reissued. Thereafter the license is renewable for periods of two years, ending with the last day of the month in which the license is granted or reissued.~~

~~A. C. Notice of renewal. At least one (1) month before the renewal date, a renewal notice will identifying the amount of the current renewal fee shall be sent to each license holder licensee to the last known address of the licensee in the Board's file of the board. Failure to receive such the notice shall not relieve the license holder licensee of his/her the obligation to pay the renewal fees in such a manner that they are received by the Board on or before the renewal date fee according to D.~~

~~B. Renewal fees of seventy-five dollars (\$75.00) (biennial) D. Renewal deadline. The biennial renewal fee shall be received by remitted to the board postmarked on or before the end last day of the last month during which the license is valid. The renewal fee shall accompany a completed notarized renewal application including an affirmation that the statements on the renewal application are true and correct to the best knowledge and belief of the licensee.~~

~~C. E. Late fee. An applicant for renewal shall pay a the current late penalty fee of fifty dollars (\$50.00) as well as the current renewal fee if the application for renewal is postmarked after the last day of the last month during which the original license or previous renewal was is valid.~~

~~+ F. Grounds for suspension of license. Failure to pay the renewal fee and late penalty fee within sixty (60) 60 days after the last day of the last month during which the original license or previous renewal was is valid shall constitute grounds is a sufficient reason to suspend the license to engaged in the private practice of psychology in this state. A license may be reissued following suspension only upon a non-prorated payment of the full biennial renewal fees fee and full biennial late penalty fees fee for each biennium or portion of a biennium following expiration of the original license or previous renewal.~~

~~D. A renewed license shall be valid for a period of only two years following the expiration date of the original license or previous renewal, regardless of when fees are received, unless the license is suspended. A license reissued after suspension shall be valid for a period of two years from the date of reissuance of the license.~~

~~E. Licensees G. Voluntary termination. A licensee may, upon occasion of renewal of licensure, voluntarily choose to terminate their the license by so notifying the board in writing. Such The notification must be received by the board prior to the Board's suspension of the license for failure to renew. Such individuals A former licensee may be licensed again only after submitting an original application and complying with all laws and rules required of original applicants for initial examination and licensure.~~

~~F. H. Time limit on license of nonresident. The board will shall not renew the licenses license of psychologists a licensee who have has neither lived nor practiced within the state for a period in excess of more than ten (10) years.~~

### ~~Psych 9 7 MCAR § 10.007 Collaboration.~~

~~(a) Applicants applying for a "licensed psychologist" license must specify the person or persons with whom they~~

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intend to collaborate if and when they engage in private practice. Such intended collaborators must be persons who are (presently certified consulting psychologists under the old Law in the State of Minnesota, or persons who are eligible for the "licensed consulting psychologist" (license under the present Law). The parenthetical portions of this section expire on July 1, 1975.

(b) The applicant is responsible for seeing that the designated collaborator(s) completes the form provided for collaborators and returns that form to the Board designating his/her intent to collaborate.

(c) A. Collaborator provided with summary. An applicant for licensure as a licensed psychologist shall provide the collaborator with a brief summary of the training, experience, and stated areas of professional competence of the applicant.

B. Collaboration report. The nature and frequency of collaborative contacts shall be mutually determined by the collaborators. At the time of application for license renewal of the license for a licensed psychologist, the applicant and the collaborator(s) will be required to provide the Board in writing evidence of who is or has been engaged in the private practice of psychology since licensure or previous renewal shall report on the nature and type frequency of collaboration that has taken place collaborative contacts during the preceding two (2) year period years.

C. Collaboration report not required in certain cases. A licensed psychologist who has not engaged in the private practice of psychology since licensure or previous renewal may meet the requirement in B. by stating that fact on the renewal form.

D. Consultation required. Formal collaboration is required only of licensed psychologists. Consultation is required of all licensees as indicated in 7 MCAR § 10.008 B.3. and E.9.

### 7 MCAR § 10.008 Rules of conduct.

#### A. Scope and purpose.

1. The rules of conduct constitute the code of ethics as required by Minn. Stat. § 148.98 and apply to the conduct of all licensees and applicants, including conduct during the period of education, training and employment which is required for licensure.

2. The rules of conduct constitute the standards against which the professional conduct of a psychologist is measured.

3. A violation of the rules of conduct constitutes unprofessional or unethical conduct and is a sufficient reason for disciplinary action or denial of licensure.

4. The rules of conduct are not all-inclusive and do not specify all grounds for disciplinary action or denial of licensure. The 1981 revision of 'The Ethical Principles of Psychologists' published by the American Psychological Association may be used as an aid in resolving any ambiguity which may arise in the interpretation of the rules of conduct. However, in a conflict between the rules of conduct and the ethical principles, the rules of conduct shall prevail.

#### B. Competence.

1. A psychologist shall limit practice to the areas of competence for which education and training or experience have been gained and which have been stated by the psychologist and accepted by the board as stated in 7 MCAR § 10.002 E.3.

2. A psychologist shall accurately represent areas of competence, education, training, experience, and professional affiliations of the psychologist to the board, the public and colleagues.

3. In cases in which a new service, technique, or specialty is developing and in which supervision is not available, a psychologist shall engage in ongoing consultation with other psychologists or similar professionals as skills are developed in the new area and shall seek continuing education which corresponds to the new area. A client whose treatment involves the use of a newly developing service, technique, or specialty shall be informed of its innovative nature and of known risks associated with it.

4. A psychologist shall recognize the professional, technical, and administrative resources available to the client and refer the client to them when it is in the best interests of the client to be provided with alternative or complementary services.

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### C. Protecting the privacy of clients.

1. A psychologist shall safeguard the private information obtained in the course of practice, teaching, or research. With the exceptions listed in 2., 3., 4., 5., and 10., private information is disclosed to others only with the informed written consent of the client.

2. Private information may be disclosed without the informed written consent of the client when the psychologist determines that disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on the client or another person. In such case the private information is to be disclosed only to appropriate professional workers, public authorities, the potential victim or the family of the client.

3. In any situation in which a person requests that the services of a psychologist be provided to a third party, the psychologist shall inform both the requester and the third party of the responsibility of the psychologist regarding the privacy of any information gained in the course of rendering the services.

4. A client who is a minor shall be informed at the beginning of the professional relationship concerning the limitation the law imposes on the right of privacy of a minor with respect to communications of a minor with a psychologist.

5. A psychologist shall limit access to client records and shall inform every person associated with the agency or facility of the psychologist, such as a staff member, student, volunteer, or community aide, that access to client records shall be limited only to the psychologist with whom the client has a professional relationship, a person associated with the agency or facility whose duties require access, and a person authorized to have access by the informed written consent of the client.

6. A psychologist shall instruct the staff to comply with the request of a client regarding the individual to whom statements for services are to be sent.

7. Case reports or other clinical materials used in teaching, professional meetings or publications shall be disguised so that no identification of the individual occurs.

8. Diagnostic interviews or therapeutic sessions with a client may be observed or electronically recorded only with the informed written consent of the client.

9. A psychologist shall continue to maintain the records of a client as private information after the professional relationship between the psychologist and the client has ceased.

10. A psychologist may release private information upon court order or to conform with state or federal law, rule or regulation.

11. A psychologist shall not violate any law, the violation of which involves the practice of psychology, concerning the reporting of abuse of children and vulnerable adults.

### D. Impaired objectivity.

1. A psychologist may not undertake or continue a professional relationship with a client in which the objectivity of the psychologist may be impaired because of an interpersonal relationship such as familial, social, economic, supervisory, or political. A psychologist whose objectivity becomes impaired because of the development of an interpersonal relationship during a professional relationship with a client shall notify the client in writing that the psychologist shall no longer see the client professionally, take steps to terminate the professional relationship, and assist the client in obtaining services from another professional.

2. A psychologist may not undertake or continue a professional relationship with a client in which objectivity or effectiveness would be impaired because of a personal problem of the psychologist such as divorce, grief reaction, severe health problem, or chemical abuse or dependency. A psychologist whose objectivity or effectiveness becomes impaired during a professional relationship with a client because of such a problem shall notify the client in writing that the psychologist shall no longer see the client professionally, take steps to terminate the relationship, and assist the client in obtaining services from another professional.

3. A psychologist shall neither request nor authorize a client to solicit other business on behalf of the psychologist.

### E. Client welfare.

1. A client has the right to have and a psychologist has the responsibility to provide a nontechnical explanation of the nature and purpose of the psychological procedures to be used and the results of tests administered to the client. The

psychologist shall establish procedures to be followed if the explanation is to be provided by another person under the direction of the psychologist.

2. A psychologist shall display prominently on the premises of the primary location of the professional practice or make available as a handout the statement of areas of competence submitted to the board and the bill of rights of clients, including a statement that consumers of psychological services offered by psychologists licensed by the State of Minnesota have the right:

- a. to expect that a psychologist has met the minimal qualifications of training and experience required by state law;
- b. to examine public records which contain the credentials of a psychologist;
- c. to obtain a copy of the rules of conduct from the Document Section of the Department of Administration;
- d. to report complaints to the board;
- e. to be informed of the cost of professional services before receiving the services;
- f. to privacy as defined by rule and law;

g. to be free from being the object of discrimination on the basis of race, religion, gender or other unlawful category while receiving psychological services.

3. A psychologist shall consider the client as an individual and shall not impose on the client any stereotypes of behavior, values or roles related to age, gender, religion, race, disability, nationality or sexual preference.

4. A psychologist shall disclose to the client value preferences for choice of treatment or outcome and shall present other available options for the consideration or choice of the client.

5. A psychologist who becomes aware of such a divergence of interests, values, attitudes or biases between a client and the psychologist that their professional relationship may be impaired shall so inform the client and shall have the right to terminate the relationship.

6. A psychologist shall inform in writing a client who is not benefiting from professional services, take steps to terminate the professional relationship and assist the client in obtaining services from another professional.

7. When requested by a client, a psychologist shall make a prompt and appropriate referral of the client to another professional.

8. A psychologist shall not engage in sexual intercourse or other physical intimacies with a client, nor in any verbal or physical behavior which is sexually seductive or sexually demeaning to a client. Physical intimacies include handling of the breasts or genital areas of either sex by either the psychologist or the client.

9. A psychologist shall make an attempt to determine whether a client has had or continues to have a professional relationship with another psychologist. If it is determined that the client had or has a professional relationship with another psychologist, the psychologist shall attempt, consistent with the wishes of the client, to coordinate psychological services for that client with the other psychologist.

10. A psychologist shall file a complaint with the board when the psychologist has reason to believe that another psychologist is or has been engaged in conduct which violates C.11., failure to report suspected abuse of children or vulnerable adults, or E.8., sexual contact with a client. This rule shall not apply when the belief is based on information obtained in the course of a professional relationship with a client who is the other psychologist.

11. A psychologist informed of conduct of another psychologist which appears to be in violation of any rule of conduct other than those listed in 10. may directly communicate with or seek to counsel the other psychologist or may file a complaint directly with the board.

12. A psychologist shall, upon request, provide information regarding the procedure for filing a complaint with the board and may, upon request, assist with filing a complaint.

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### F. Tests.

1. A test or automated test interpretation service offered for use by qualified professionals shall be accompanied by a manual or other readily available published information which fully describes the development of the test or service, the rationale, evidence of validity and reliability and characteristics of the normative population. The psychologist shall explicitly state the purposes and application for which the test is recommended and identify special qualifications required to administer and interpret it properly. The psychologist shall ensure that the advertisements for the test are factual, descriptive, and not evaluative.

2. A psychologist may offer psychological tests for commercial publication only to publishers who have presented tests in a professional manner and who have distributed them only to qualified professional users.

3. A report of the results of a test shall include any reservations or qualifications regarding validity or reliability which a psychologist may have because of the testing circumstances or any deficiencies of the test norms for the individual tested, and how the psychologist has applied those reservations and qualifications to the score of the individual.

4. A test result or interpretation regarding an individual is private information.

### G. Public announcement of services.

1. Public statements shall not include false or misleading information. They may describe fees, professional qualifications and services provided, but they may not evaluate services as to their quality or uniqueness and may not contain testimonials by quotation or implication.

2. A psychologist may not misrepresent directly or by implication professional qualifications such as education, experience or areas of competence. A psychologist may not misrepresent directly or by implication affiliations, purposes and characteristics of institutions and organizations with which the psychologist is associated.

### H. Fees and statements.

1. A client has the right to ask about and be informed by a psychologist about the cost of professional services before the services are provided.

2. A psychologist shall itemize fees for all services for which the client or a third party is billed and make the itemized statement available to the client. The statement shall identify at least the date on which the service was provided, the nature of the service, the name of the person providing the service, and the name of the person who is professionally responsible for the service.

3. A psychologist shall not directly or by implication misrepresent to the client or to a third party billed for services the nature of the services, the extent to which the psychologist has provided the services, or the person who is professionally responsible for directing the services provided by the psychologist.

4. A psychologist shall not claim a fee for services unless the psychologist is either the direct provider of the services or the person who is professionally responsible for the provision of the services and under whose direction the psychologist provides the services.

5. No commission, rebate, or other form of remuneration may be given or received by a psychologist for the referral of clients for psychological services.

6. Except as provided by law relating to business organizations, a psychologist may not divide fees with another professional without the informed consent of the client and unless the division is in direct proportion to the services performed and the responsibility assumed by each professional.

I. Practicing without a license. A psychologist shall not aid or abet an unlicensed person in engaging in the private practice of psychology. A psychologist who supervises a person preparing for the professional practice of psychology according to Minn. Stat. § 148.97, subd. 3, clause (2), is not aiding or abetting an unlicensed person in engaging in the private practice of psychology.

J. Welfare of research subjects. A psychologist shall protect the welfare of research subjects and shall accord human research subjects the client rights listed in C. and E.

K. Violation of law. A psychologist shall not violate any law in which the facts giving rise to the violation involve the provision of psychological services. In determining whether a violation involves the provision of psychological services the board shall consider:

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1. the nature and seriousness of the violation the psychologist is alleged to have committed;
2. the relationship of the alleged violation to the purposes of regulating the practice of psychology; and
3. the relationship of the violation to the ability, capacity, fitness or integrity of the psychologist in rendering psychological services.

In any board proceeding the conviction of a crime shall constitute proof of the underlying factual elements needed to constitute a violation of this rule.

### 7 MCAR § 10.009 Waivers and variances.

A. Waivers; application. A licensee or applicant for licensure may apply to the board for a time limited waiver of any rule. The waiver may be granted if the licensee or applicant provides evidence that:

1. the rule in question does not address a problem of significance to the public in relation to the practice of the licensee or application of the applicant;
2. adherence to the rule would impose an undue burden on the licensee or applicant; and
3. the granting of a waiver will not adversely affect the public welfare.

B. Waivers, renewal, reporting and revocation. A waiver may be renewed upon reapplication according to the procedure described in A. if the circumstances justifying its granting continue to exist. Any licensee who is granted a waiver shall immediately notify the board in writing of any material change in the circumstances which justify its granting. A waiver may be revoked if a material change in the circumstances which justify its granting occurs.

C. Variances; application. A licensee or applicant may apply to the board for a time limited variance from any rule. A variance may be granted if the licensee or applicant specifies alternative practices or measures equivalent to or superior to those prescribed in the rule in question and provides evidence that:

1. the rationale for the rule in question can be met or exceeded by the specified alternative practices or measures;
2. adherence to the rule would impose an undue burden on the licensee or applicant; and
3. the granting of the variance will not adversely affect the public welfare.

D. Variances, compliance. Any licensee or applicant who is granted a variance shall comply with the alternative practices or measures specified in the application for the variance.

E. Variance; renewal, reporting, and revocation. A variance may be renewed upon reapplication according to the procedure described in C. if the circumstances justifying its granting continue to exist. Any licensee or applicant who has been granted a variance shall immediately notify the board of any material change in circumstances which justify the granting of the variance. A variance may be revoked if a material change in the circumstances which justify its granting occurs.

F. Burden of proof. The burden of proof is upon the licensee or applicant to demonstrate to the board that the requirements cited in A. and C. have been met.

Repealer. Rules Psych 2, Psych 5, Psych 8, Psych 10, Psych 11, Psych 12, and Psych 13 are repealed.

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# ADOPTED RULES

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

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

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

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

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## Department of Natural Resources

### Commissioner's Order No. 2110

#### Regulations for the Taking of Beaver during the 1982 Spring Season

Pursuant to authority vested in me by law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking of beaver during the 1982 spring season.

##### Section 1. BEAVER SEASON DATES, HOURS AND OPEN ZONE.

Except as otherwise provided herein, beaver may be taken by trapping from 6:00 a.m. on March 1, 1982 through 6:00 p.m. on April 30, 1982, statewide except the season is closed in Cook County and that portion of the state lying within the following described area:

Beginning at the intersection of the midline of the Mississippi River and U.S. Highway 61 at Hastings, thence southerly along U.S. Highway 61 to U.S. Highway 16 at LaCrescent, thence southerly along U.S. Highway 16 to State Trunk Highway 26, thence southerly along State Trunk Highway 26 to the southern boundary of the state; thence along the southern and eastern boundaries of the state to the confluence of the St. Croix and Mississippi Rivers, thence along the midline of the Mississippi River to the point of beginning.

##### Sec. 2. BEAVER SEASON LIMITS.

Beaver may be taken by licensed trappers during the open season without limit.

##### Sec. 3. WILDLIFE MANAGEMENT AREAS, STATE GAME REFUGES, FEDERAL WATERFOWL PRODUCTION AREAS, STATE PARKS AND NATIONAL WILDLIFE REFUGES.

A. Beaver may be taken within wildlife management areas in the open zone of the state during the open season by licensed trappers provided they have a permit issued by a state game manager.

B. Federal Waterfowl Production Areas which are located in the open zone of the state are open to the trapping of beaver during the open season.

C. No person shall take beaver in any of the areas under the administration of the Division of Parks and Recreation.

D. Within the Agassiz and Tamarac National Wildlife Refuges, beaver may be taken by licensed trappers provided they have a permit issued by the refuge manager. All other National Wildlife Refuges are closed to beaver trapping.

E. All game refuges which are located in the open zone of the state are open to the trapping of beaver during the open season pursuant to Commissioner's Order No. 2102 and amendments thereto.

##### Sec. 4. GENERAL PROVISIONS.

A. No traps of any kind shall be set in or upon any beaver house. When the water adjacent to any beaver house is not frozen, no traps of any kind shall be set closer than six (6) feet from the waterline of such house.

B. No person shall molest or damage any beaver house or dam.

C. No person shall set, place, or operate, except as a waterset, any killer trap of the conibear type that has a maximum jaw spread greater than seven inches. No person shall set, place, or operate in a culvert, except as a completely submerged waterset, any killer trap of the conibear type that has a maximum jaw spread greater than six inches.

D. No person shall tend or set any trap for any wild animals between the hours of 6:00 p.m. and 6:00 a.m.

E. Snowmobiles and all terrain vehicles may be used only in Koochiching and Lake of the Woods Counties to transport or check beaver traps and to transport beaver carcasses.

F. All persons 13 years of age and older must have a valid 1982 beaver trapping license in order to trap beaver.

G. Trappers 16 years of age or older are required to have a small game license in addition to the beaver trapping license, except that the resident owner or lessee of any lands occupied by himself as a permanent abode, and any member of such person's immediate family residing with him, may lawfully trap protected furbearing animals upon such lands by procuring the appropriate trapping license, but without procuring a small game license.

H. No person shall place, set, or operate a trap unless his or her name and either address or driver's license number is etched legibly onto the trap or onto a metal tag no less than 30 gauge in thickness which is welded, brazed or soldered to the trap or affixed to the trap with a tightly twisted wire or solid metal ring.

I. Traps capable of taking more than one animal at a time shall not be used.

J. Any traps set for protected wild animals and not capable of drowning the animals shall be tended at least once every 36 hours.

K. Except as expressly provided herein, this order shall not be construed to limit the number of any furbearing animals that may lawfully be possessed, transported or sold by an licensed fur buyer.

L. All animals taken pursuant to this order must be killed before being removed from the site where taken.

M. No person shall set or maintain any leg-hold trap within 20 feet of bait located in such a manner that it may be seen by soaring birds. Bait is defined as any animal or parts thereof, except that small aggregates of fur and feathers may be used for flagging purposes.

N. No person shall be accompanied by a dog or dogs while engaged in tending or setting traps for protected wild animals, unless such dog or dogs are harnessed and attached to a sled or securely tethered to a tree or other permanent device with a leash of no more than 15 feet in length.

Dated at Saint Paul, Minnesota, this 5th day of February, 1982.

Joseph N. Alexander, Commissioner  
Department of Natural Resources

## Energy Agency

### Adopted Temporary Rules Governing the Home Energy Disclosure Program

The temporary rules proposed at *State Register*, Volume 6, Number 24, page 1113, December 14, 1981 (6 S.R. 1113) which were identical to the permanent rules published at *State Register*, Volume 6, Number 20, pages 922-937, November 16, 1981 (6 S.R. 922) are now adopted with the following modifications:

#### Temporary Rules as Adopted

6 MCAR § 2.2502 [Temporary] Definitions. For the purposes of 6 MCAR §§ 2.2501-2.2510, the following terms have the meanings given them.

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

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

c. Solaria/sunspace systems consisting of structures of glass, fiberglass or similar transparent material which is attached to the south-facing wall of a structure which allows for air circulation to bring heat into the residence and which is able to be closed off from the residential structure during periods of low solar ~~insulation~~ insolation.

6 MCAR § 2.2504 [Temporary] Conducting the evaluation.

G. Disclosure. ~~The following~~ A disclosure using the following language or similar language shall be included in any report prepared pursuant to D., E., or F.:

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## ADOPTED RULES

"The energy cost savings estimates you receive are based on systems which may be somewhat different from the ones you purchase. Also, these estimates were not determined using actual conditions but by using simulated measurements. Therefore, the cost savings we have estimated may be different from the savings which actually occur."

6 MCAR § 2.2505 [Temporary] Presentation of evaluation results. Upon completion of the evaluation, the evaluator shall provide the following information in writing to the seller or the seller's agent:

E. ~~The following~~ A disclosure using the following language or similar language: "The procedures used to make these estimates are consistent with the Minnesota Energy Agency criteria for residential energy audits. However, the actual installation costs you incur and energy cost savings you realize from installing these measures may be somewhat different from the estimates contained in this audit report. Although the estimates are based on measurements of your house, they are also based on assumptions which may not be appropriate for your household."

6 MCAR § 2.2507 Qualification procedures for evaluators.

C. Certification. Only those persons who satisfy all of the following conditions shall be certified:

2. All persons shall submit a \$50 certification fee to the Minnesota Energy Agency. However, no certification fee shall be charged for certified municipal building officials who are directly employed by a municipality as defined in Minn. Stat. § 16.84, subd. 3, or for employees of private non-profit community-based organizations, when the evaluations are performed as part of the employee's normal job responsibilities.

~~a.~~ No certification fee shall be charged for those persons upgrading their certification who were certified prior to July 1, 1981.

~~b.~~ The Minnesota Energy Agency may charge a fee for those persons seeking to be recertified.

6 MCAR § 2.2510 [Temporary] Calculation procedures. The following procedures shall be the basis for calculating energy savings for program measures.

A. Energy conserving measures.

11. Water heater insulation.

a. If water heater is in an unconditioned space.

Equation #12.

$$\Delta E = \frac{8760A \left( \frac{1}{R_o} - \frac{1}{R_i} \right) (T_w - T_a)}{N_r V}$$

$$\Delta E = \frac{8760A \left( \frac{1}{R_o} - \frac{1}{R_i} \right) (T_w - T_a)}{N_r V}$$

b. If water heater is in a conditioned space.

Equation #13.

$$\Delta E = \frac{H \times A \times \left( \frac{1}{R_o} - \frac{1}{R_i} \right) (T_w - T_a)}{N_r V}$$

$$\Delta E = \frac{H \times A \times \left( \frac{1}{R_o} - \frac{1}{R_i} \right) (T_w - T_a)}{N_r V}$$

Where:

A = Area of water heater to be insulated.

R<sub>o</sub> = Total R-value of the existing insulation and existing construction materials of the water heater before improvement.

R<sub>i</sub> = Total R-value of the water heater after improvement to include total recommended R-value of the insulation and construction materials.

$T_w$  = Hot water temperature.

$T_a$  = Average air temperature of area surrounding water heater.

$N_r$  = Recovery efficiency of water heater.

$V$  = Heating value of fuel type in Btu per unit of fuel.

$H$  = Number of hours per year that the outside temperature is above 65 degrees Fahrenheit.

12. Storm and thermal windows.

Equation #14.

$$\Delta H = \left( \frac{1}{R_o} - \frac{1}{R_i} \right) \times A$$

$$\Delta H = \left( \frac{1}{R_o} - \frac{1}{R_i} \right) \times A$$

Where:

$R_o$  = The R-value of the existing window assembly.

$R_i$  = The R-value of the proposed window assembly.

$A$  = The area of the window assembly.

18. Passive solar systems.

d. Window heat gain retardants. Same as Equation #14.

21. Install positive shut-offs for all fireplaces or fireplace stoves.

Equation #23.

$$\Delta H = 1.08 (Q_o - Q_i) A$$

$$\Delta H = 1.08 (Q_o - Q_i) A$$

Where:

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

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

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

## Board of Peace Officer Standards and Training

### Adopted Rules Governing the Selection, Training, and Licensing of Peace Officers and Constables

The rules proposed and published at *State Register*, Volume 6, Number 16, pages 670-686, October 19, 1981 (6 S.R. 670) are now adopted with the following modifications:

#### Rules as Adopted

##### 4 MCAR § 13.022 Definitions.

E. Basic course. "Basic course" means a course of study, including both academic and skills instruction as specified in 4 MCAR § 13.023 A., which must be completed by any individual seeking to be licensed as a peace officer and whose content, length, instruction and instructors have been approved by the board.

##### 4 MCAR § 13.023 Basic course.

E. Participation requirement. All students shall be capable of complete participation in all basic course activities. Any

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## ADOPTED RULES

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student unable to physically or psychologically participate in all aspects of the basic course ~~may~~ shall not be deemed as satisfactorily completing the basic course.

### 4 MCAR § 13.024 Certification of schools.

D. School disciplinary action. Failure of a school to comply with any of the following requirements will result in imposition of disciplinary sanctions by the board against the school:

4. Cooperation of the staff and faculty of a school with any board investigation of alleged misconduct by students, staff or faculty in the giving or taking of examinations, reports or investigations required by the board. The staff and faculty shall report any misconduct which is discovered to the board. For purposes of this requirement, the term "misconduct" includes, ~~but is not limited to:~~

- a. Cheating on any licensing examination or tests required by the rules of the board, or helping another to cheat;
- b. Filing of a false ~~reports~~ report with the board ~~in cases where the board has requested reports;~~ or
- c. Obstructing a board investigation.

F. Disciplinary proceedings. Disciplinary proceedings under this rule shall be conducted pursuant to the Administrative Procedures Act, Minn. Stat. ch. 15, and the rules of the State Office of Administrative Hearings, 9 MCAR §§ ~~2.101~~ 2.201-2.222.

### 4 MCAR § 13.025 Peace officer pre-employment education.

E. Peace officer licensing examination. Upon successful completion of the required peace officer licensing examination, a person is eligible for licensure as a peace officer for three years. If the person is not licensed after three years, the person may reinstate his eligibility by passing the appropriate licensing examination. The executive director shall determine what examination is appropriate ~~under the circumstances~~ based on the substantive changes in law and police practices.

### 4 MCAR § 13.027 Minimum selection standards.

A. Selection standards. A person eligible to be licensed shall meet the following minimum selection standards prior to being appointed to the position of peace officer. The appointing authority may certify that the applicant has already completed certain of these standards, but certification must be documented pursuant to B.

4. The applicant shall submit to a thorough background search including, ~~but not limited to,~~ searches by local, state and federal agencies, to disclose the existence of any criminal record or conduct which would adversely affect the performance by the applicant of peace officer duties.

10. The applicant shall successfully complete an oral examination conducted by or for the agency to demonstrate the possession of communication skills necessary to the accomplishment of the duties and functions of a peace officer.

### 4 MCAR § 13.029 Continuing education.

C. Criteria for course approval. For the purpose of this rule, "course sponsor" means any agency, organization or person who provides continuing education courses and seeks board approval of these courses.

5. Instructors who teach in continuing education courses shall possess:

- a. Professionally recognized training and experience in the assigned subject area; and
- b. Board-recognized instructor training or specialized academic preparation in the assigned subject area, ~~to include including but not limited to psychology, law and forensic pathology. Assigned subject areas may include, but are not limited to, psychology, law and forensic pathology.~~

9. The board may accredit a course sponsor to offer a continuing education course for a ~~specific~~ specified period of time without further documentation.

### 4 MCAR § 13.030 License renewal.

C. Certificate of renewal. The executive director shall issue a certificate of renewal, which is valid for three years, to each applicant who has submitted the appropriate fee on or before June 30 of the year when the license becomes due for renewal and also completed the required hours of continuing education.

2. The required hours of continuing education are:

- a. No hours for a any part-time peace officer or for a peace officer or constable who has been licensed for less than six months;

### 4 MCAR § 13.031 Licensing of part-time peace officers.

B. Notification of appointment of part-time peace officer. The chief law enforcement officer shall notify the board in writing

before the first day of employment of an individual who has been appointed to the position of part-time peace officer. If the appointee is not already licensed, the appointee shall apply for a provisional license on a form provided by the board.

J. Inactive status of part-time peace officer license.

1. The chief law enforcement officer shall notify the board within ten days of all voluntary or involuntary terminations of part-time peace officers. The notification shall include:

c. ~~Other information requested by the board~~ Date of termination.

4 MCAR § 13.032 Constables.

H. Inactive status of constable license.

1. The appointing authority shall notify the board within ten days of all voluntary or involuntary terminations of a constable. Notification shall include:

c. ~~Other information requested by the board~~ Date of termination.

4 MCAR § 13.034 Inactive status of peace officer licenses.

A. Terminations. The chief law enforcement officer shall notify the board within ten days of all voluntary and involuntary terminations of peace officers. The notification shall include:

3. ~~Other information requested by the board~~ Date of termination.

4 MCAR § 13.037 Complaint processing. For the purpose of this rule, "affected parties" means the complainant, the licensee who is subject to the complaint, and the chief law enforcement officer in the agency employing the officer who is a party to the complaint.

J. License hearings.

1. Administrative license hearings shall be conducted in the manner prescribed by the contested case procedures mandated by Minn. Stat. ch. 15, the Administrative Procedures Act, and 9 MCAR §§ ~~2.101~~ 2.201-2.222, the rules of the Office of Administrative Hearings.

## Department of Public Welfare

### Adopted Rule Governing Reimbursement for Cost of Care of Patients of a State Hospital (12 MCAR § 2.027)

The rule proposed and published at *State Register*, Volume 6, Number 8, pages 225-233, August 24, 1981 (6 S.R. 225) is now adopted with the following modifications:

#### Rule as Adopted

12 MCAR § 2.027 Reimbursement for cost of care of patients in a state hospital.

B. Definitions. For purposes of 12 MCAR § 2.027, the following terms have the meanings given them.

5. Dependent. "Dependent" means an individual whom a person is entitled to claim as a dependent on the Minnesota state income tax return. ~~One person shall not be claimed as a dependent by two individuals~~ An individual may not be claimed as a full unallocated dependent by more than one person. When two or more individuals persons are entitled to claim the dependent, the dependent shall be allocated equally among the individuals persons unless the individuals persons choose another allocation.

19. Resource. "Resource" means any property or benefit that is ~~or may be~~ available to pay for the cost of care of the patient.

C. Determination procedure.

1. Time of determination.

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## ADOPTED RULES

a. Ability to pay the cost of care shall be determined when the patient is admitted, when there is ~~or may be~~ a change in the patient's financial status, when a patient, responsible relative, guardian, conservator or representative payee reports a change in the financial status used in determining ability to pay, when the patient has been hospitalized for 120 days or more, when the patient is being discharged and when the financial status has not been reviewed for one year.

### 2. Persons interviewed.

a. ~~The patient shall be interviewed to determine ability to pay except when the management of the patient's financial affairs is in the hands of another person, such as a guardian, custodian, conservator or the parent of a minor child, or when the patient is incapable of participating in the interview process because of the patient's illness or disability. When the patient is not interviewed, the reason shall be noted in the patient's financial information file~~ In all instances the patient shall be present at the interview to determine ability to pay unless the patient is a minor or the attending physician of the state hospital attests the patient's presence is medically contraindicated. The physician's signed statement shall be placed in the patient's financial information file.

b. ~~When the patient cannot be interviewed, the person interviewed shall be the patient's legal guardian, the conservator, the parents of a minor child, a spouse, a relative of the patient, a trustee, a representative payee, the patient's legal representative, or a county social worker~~ The patient shall be the source of financial information to determine ability to pay except when the management of the patient's financial affairs is in the hands of another person. When the patient is not the source of financial information the reason shall be noted in the patient's financial information file.

c. When the patient is not able to act on his own behalf, the person interviewed shall be the patient's legal guardian, the conservator, the parents of a minor child, a spouse, a relative of the patient, a trustee, a representative payee, the patient's legal representative, or a county social worker.

~~e. d.~~ If the patient is unable to pay the full cost of the per diem, the responsible relative shall be interviewed.

### 3. Financial interview. When a person is interviewed, the department shall:

c. Inform the person that financial information obtained from the person will not be released without the person's written consent except pursuant to Minn. Stat. §§ 15.1611-~~15.1698~~ 15.1699;

4. Verification required. This process shall be used to substantiate information entered on the signed financial information form. ~~The following information reimbursement officer shall be verified~~ verify:

~~a. the patient's income, insurance benefits, property, deductions allowed to pay previously incurred debts, and the number of dependents claimed; and~~

~~b. Other information relevant to the person's ability to pay if the reimbursement officer has reason to question the accuracy of the information.~~

6. Refusal to complete financial information form. Failure or refusal to complete and sign the required financial information form, apply insurance benefits received to pay the cost of care, or provide signatures required to assign third party benefits and release medical and financial information or verification within 30 days of the interview shall result in the determination that the person is able to pay the full cost of care permitted under Minn. Stat. § 246.51 until the person takes the required action.

7. Determination order. A determination order and notice of rate showing the per diem ~~and~~, the amount the person is ordered to pay and the right to a review and an appeal shall be sent by the department to the person, and the person's guardian or, conservator or representative payee.

8. Review of determination. A person who disagrees with the department's determination of ability to pay may request that the department review its decision. The request shall be made in writing within 15 calendar days of the date the order was mailed. The request for review shall include the reasons for disagreeing with the determination order. ~~A request for review shall not extend the time for appeal given in Minn. Stat. § 246.55~~ When a person requests review as provided in this paragraph, the department's determination shall not become final until the department responds to the request for the review. The department shall send the person a notice of the decision after review and a final determination order.

### E. Net income; patient.

4. Deductions from gross income to arrive at net income. The following items shall be deducted from the patient's monthly gross income:

j. An allowance of \$71 per month per boarder, ~~\$39~~ \$59 per month per roomer and \$130 per month for each person who is both a roomer and boarder. This amount shall be updated periodically by the percentage the legislature authorizes for public assistance grants;

k. A personal needs and clothing allowance of the inpatient in the amount determined in accordance with Minn. Stat. § 256B.35 for persons receiving public assistance grants. In addition, a special personal allowance drawn solely from earnings from any productive employment under an individual plan of rehabilitation or work therapy shall be given to all patients in state hospitals. The special personal allowance shall not exceed \$50 per month;

l. Sixty percent of the income earned from child care in one's own home or, if the patient chooses, the actual itemized business expenses incurred in providing child care subject to the limitations provided in B.1., B.2., and E.4.i.;

F. Property; patient. Property shall be available to pay for the cost of the patient's care to the extent owned by the patient, subject to the exclusions in 1.-6.

2. Personal property. The value of the following personal property shall be excluded from consideration as a resource:

a. The value of personal property other than stocks, bonds, and ~~money market certificates~~ other investment instruments which is owned by the patient and which yields or contributes to the production of a net income, such as tools, farm implements, livestock, and business inventory and fixtures acquired prior to hospitalization;

c. Up to ~~\$10,000~~ \$4,000 in cash or liquid assets, for a married couple;

n. Trust funds; ~~unless~~. However trust funds are not excluded from consideration if the trustee is required or has discretion to use the funds for paying the cost of care or the funds are designated for care, support, maintenance, or medical care even if the trust requires that public funds must first be exhausted; and

3. Waiver of property as a resource.

a. The department shall waive consideration of property in excess of the exemptions when ~~liquidation would result in undue hardship or the patient's equity cannot be converted, or when the spouse or dependent child needs a second vehicle as a means of transportation to obtain medical care, training for employment or employment~~ the patient's equity cannot be liquidated, the offered price is less than 80 percent of the market value given by two appraisers agreeable to both parties, or the cost of repairs necessary to meet the conditions of sale exceeds 35 percent of the offered price;

b. Each case shall be referred to the department's ~~legal advisor~~ reimbursement division central office and decided on the merits of the facts recorded in the patient's financial information file to substantiate the circumstances;

4. Transfer of property. The market value of any property transferred, less any value received, shall be treated as an available resource if the property is valued at more than \$1,000 and if the transfer is for less than the market value and if the transfer is made:

c. Prior to hospitalization in a state hospital but ~~after planning for placement in the state hospital has begun~~ within 24 months of admission to the hospital.

G. Ability to pay; responsible relative.

3. Insurance benefits. The responsible relative shall inform the dependent about dependent benefits from hospital and medical insurance carried by the relative.

d. ~~When insurance benefits are paid under a policy having premiums paid by the responsible relative,~~ The amount of the premium paid by the responsible relative may be deducted from the responsible relative's total obligation to pay.

5. Limitations on relative's ability to pay. The ability of a responsible relative to pay shall be determined from the annual gross earnings of the responsible relative subject to the limitations in a.-e.

c. The department shall require payment of the full cost of care for a child if the child's parents ~~and guardians~~ all both live outside Minnesota and are financially able to pay as determined by G.7.

7. Exhibit 12 MCAR § 2.027 G.7. shall be used to determine a relative's ability to pay, as described in 6.

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# ADOPTED RULES

**Exhibit 12 MCAR § 2.027 G.7.  
Daily Payment Based on Ability to Pay According  
to Household Size and Annual Gross Earnings of  
Responsible Relatives**

Annual Gross Earnings of Responsible Relative	Household Size									
	1	2	3	4	5	6	7	8	9	10
11,000-12,999	1.00	-	-	-	-	-	-	-	-	-
13,000-14,999	1.50	.50	-	-	-	-	-	-	-	-
15,000-16,999	2.00	1.00	-	-	-	-	-	-	-	-
17,000-18,999	2.50	1.50	.50	-	-	-	-	-	-	-
19,000-20,999	3.00	2.00	1.00	-	-	-	-	-	-	-
21,000-22,999	3.50	2.50	1.50	.50	-	-	-	-	-	-
23,000-24,999	4.00	3.00	2.00	1.00	-	-	-	-	-	-
25,000-26,999	4.50	3.50	2.50	1.50	.50	-	-	-	-	-
27,000-28,999	5.00	4.00	3.00	2.00	1.00	-	-	-	-	-
29,000-30,999	5.50	4.50	3.50	2.50	1.50	.50	-	-	-	-
31,000-32,999	6.00	5.00	4.00	3.00	2.00	1.00	-	-	-	-
33,000-34,999	6.50	5.50	4.50	3.50	2.50	1.50	.50	-	-	-
35,000-36,999	7.00	6.00	5.00	4.00	3.00	2.00	1.00	-	-	-
37,000-38,999	7.50	6.50	5.50	4.50	3.50	2.50	1.50	.50	-	-
39,000-40,999	7.50	7.00	6.00	5.00	4.00	3.00	2.00	1.00	-	-
41,000-42,999	7.50	7.50	6.50	5.50	4.50	3.50	2.50	1.50	.50	-
43,000-44,999	7.50	7.50	7.00	6.00	5.00	4.00	3.00	2.00	1.00	-
45,000 and over	7.50	7.50	7.50	6.50	5.50	4.50	3.50	2.50	1.50	.50

8. Adjustments to table. The department shall annually adjust the daily payment to reflect the annual percentage change reported in the most recent consumer price index for all urban consumers in the Minneapolis-St. Paul area.

11,000-										
11,999	.33	0								
12,000-										
12,999	.45	.33	0							
13,000-										
13,999	.57	.45	.33	0						
14,000-										
14,999	.72	.57	.45	.33	0					
15,000-										
15,999	.87	.72	.57	.45	.33	0				
16,000-										
16,999	1.05	.87	.72	.57	.45	.33	0			
17,000-										
17,999	1.23	1.05	.87	.72	.57	.45	.33	0		
18,000-										
18,999	1.45	1.23	1.05	.87	.72	.57	.45	.33	0	
19,000-										
19,999	1.81	1.45	1.23	1.05	.87	.72	.57	.45	.33	0

## ADOPTED RULES

<u>20,000-</u>										
20,999	2.26	1.67	1.45	1.23	1.05	.87	.72	.57	.45	.33
<u>21,000-</u>										
21,999	2.82	1.92	1.67	1.45	1.23	1.05	.87	.72	.57	.45
<u>22,000-</u>										
22,999	3.52	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72	.57
<u>23,000-</u>										
23,999	4.41	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72
<u>24,000-</u>										
24,999	5.51	3.06	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87
<u>25,000-</u>										
25,999	6.89	3.82	2.75	2.45	2.17	1.92	1.67	1.45	1.23	1.05
<u>26,000-</u>										
26,999	8.61	4.77	3.05	2.75	2.45	2.17	1.92	1.67	1.45	1.23
<u>27,000-</u>										
27,999	8.80	5.96	3.37	3.05	2.75	2.45	2.17	1.92	1.67	1.45
<u>28,000-</u>										
28,999	8.80	7.46	4.21	3.37	3.05	2.75	2.45	2.17	1.92	1.67
<u>29,000-</u>										
29,999	8.80	8.80	5.26	3.72	3.37	3.05	2.75	2.45	2.17	1.92
<u>30,000-</u>										
30,999	8.80	8.80	6.57	4.07	3.72	3.37	3.05	2.75	2.45	2.17
<u>31,000-</u>										
31,999	8.80	8.80	8.21	4.45	4.07	3.72	3.37	3.05	2.75	2.45
<u>32,000-</u>										
32,999	8.80	8.80	8.80	4.83	4.45	4.07	3.72	3.37	3.05	2.75
<u>33,000-</u>										
33,999	8.80	8.80	8.80	6.03	4.83	4.45	4.07	3.72	3.37	3.05
<u>34,000-</u>										
34,999	8.80	8.80	8.80	7.53	5.25	4.83	4.45	4.07	3.72	3.37
<u>35,000-</u>										
35,999	8.80	8.80	8.80	8.80	5.67	5.25	4.83	4.45	4.07	3.72
<u>36,000-</u>										
36,999	8.80	8.80	8.80	8.80	6.12	5.67	5.25	4.83	4.45	4.07

**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

37,000-											
37,999	8.80	8.80	8.80	8.80	7.56	6.12	5.67	5.25	4.83	4.45	
38,000-											
38,999	8.80	8.80	8.80	8.80	8.80	7.56	6.12	5.67	5.25	4.83	
39,000-											
39,999	8.80	8.80	8.80	8.80	8.80	8.80	7.56	6.12	5.67	5.25	
40,000-											
40,999	8.80	8.80	8.80	8.80	8.80	8.80	8.80	7.56	6.12	5.67	
41,000-											
41,999	8.80	8.80	8.80	8.80	8.80	8.80	8.80	8.80	7.56	6.12	
42,000-											
42,999	8.80	8.80	8.80	8.80	8.80	8.80	8.80	8.80	8.80	7.56	
43,000-											
43,999	8.80	8.80	8.80	8.80	8.80	8.80	8.80	8.80	8.80	8.80	

When the annual gross earnings exceed the amount shown in Exhibit 12 MCAR § 2.027 G.7., the daily payment shall be at the statutory limitation of ten percent of the per diem.

~~9-~~ 8. Verification of financial information.

a. The annual gross earnings of a relative and the number of dependents of a relative shall be verified from the relative's Minnesota state income tax return or, in the case of a relative who is not a resident of Minnesota and does not file a Minnesota state income tax return, from the United States income tax return.

b. The amount of the premium paid by the relative to provide dependent hospital and medical insurance coverage for the patient shall be verified.

~~10-~~ 9. Clothing and personal needs allowance of a minor. The parents of a patient who is an unmarried, dependent child shall be responsible for meeting the patient's clothing and personal needs allowance in addition to the amount they are determined able to pay to meet the cost of care.

## TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

**State of Minnesota**  
**County of Ramsey**

**Tax Court**  
**Regular Division**

Harry S. Bement and  
Joan Bement,  
Appellants,

Findings of Fact, Conclusions of Law, and Order for  
Judgment

v.

Docket Nos. 3245-S and 3299

The Commissioner of Revenue,  
Appellee.

Order dated February 3, 1982.

The above matter came on for trial at the Crow Wing County Courthouse at Brainerd, Minnesota, on September 4, 1981, before the Honorable John Knapp, Chief Judge of the Minnesota Tax Court.

Criston L. Drake, Esq. of the law firm of Ryan, Ryan, Ruttger and Drake, appeared for the Appellant.

Thomas K. Overton, Special Assistant Attorney General, appeared for the Appellee.

The appeal is from two orders of the Commissioner of Revenue assessing additional income taxes against the Appellant for the years 1976, 1977 and 1978.

Tax Court Docket No. 3245-S is an appeal from the Order of the Commissioner assessing additional income taxes for the year 1976, and Tax Court Docket No. 3299 is an appeal from an Order of the Commissioner of Revenue assessing additional income taxes for the calendar years 1977 and 1978. Upon motion the matters were consolidated for trial.

Before any testimony was taken, Mr. Overton, as counsel for Appellee, moved the Court for an Order dismissing the appeals because the Appellant had failed to answer discovery requests, contending that the Appellee had been prejudiced by the failure to answer. The Court took the motion under advisement and indicated that if it develops that the state was prejudiced, the Court would issue the Order.

With regard to calendar year 1976, the primary issue is the non-recognition of gain on the sale of the residence known as Dewes Road #1. The commissioner has refused to allow the non-recognition of gain, and has computed the income tax on the gain from the sale of that home as ordinary income. The homestead credit was also disallowed but that item was not contested by the Appellant.

With regard to calendar year 1977, the commissioner has computed additional income taxes based on the sale of Dewes House #2 sold to Swanson on which a profit of \$15,358 was realized and on additional unreported rental income in the amount of \$900.00. The Appellant has not contested the additional income attributable to the sale of Dewes House #2 but has denied the receipt of additional unreported rental income in the amount of \$900.00.

With regard to calendar year 1978, the commissioner has assessed additional income taxes based on unreported additional rental income in the amount of \$4,800 and itemized deductions for interest payments in the amount of \$275, which was disallowed. The Appellant has denied the receipt of additional unreported rental income for the year 1978, and the Appellee has conceded that the deductions for interest payments were proper.

#### Syllabus

A home builder is entitled to non-recognition of gain on the sale of his personal residence provided he can prove that the residence was occupied as his homestead for at least a year prior to sale and provided he can prove that the cost to him of the new residence was in excess of the adjusted selling price of the old residence. In the instant case, the Appellant established that he was entitled to non-recognition of gain, but failed to establish that the cost of purchasing the new residence was equal to or in excess of the adjusted sales price of the old residence. Hence, the recognized gain on the sale of the residence held for more than a year is entitled to long-term capital gain treatment.

From the files and records herein and from the evidence adduced at the trial, the Court makes the following:

#### Findings of Fact

1. On or about February 24, 1981, the Appellee served discovery requests upon the Appellant's attorney. At that time, the only appeal pending was Docket No. 3245-S relating to calendar year 1976. The answers were due June 3, 1981. No timely answers were served until 3:50 p.m. on September 3, 1981.

2. The Notice of Appeal from the Commissioner's Orders covering the calendar year 1977 and 1978 was not filed until April 24, 1981 (Tax Court Docket No. 3299).

3. Appellant built the residence, herein referred to as Dewes Road #1, for his personal residence. The house was completed in April of 1975. Appellant and his wife occupied it as their personal residence from that time until June of 1976 when marital problems developed between them, and the wife moved out of the house. The Appellant continued to reside there until he sold the house in October of 1976. The selling price was \$42,000. After deducting closing costs of \$3,017, the adjusted sales price was \$38,929.00.

4. After the sale of the Dewes Road #1 house in October of 1976, the Appellant occupied a new residence herein designated as 1109 Mill Avenue as his homestead.

5. The Appellant is engaged in the business of owning, renting, building and re-building homes and lived in several houses while they were under construction, including the houses at Dewes Road #1, Dewes Road #2, 1109 Mill Avenue, 102 Seventh Avenue, and 1103 Seventh Avenue.

6. On his 1976 Income Tax Return, the Appellant attached a statement concerning the sale of his personal residence and indicated that he was claiming non-recognition of gain under Section 1034 of the Internal Revenue Code.

7. Appellant did not establish that the cost basis of 1109 Mill Avenue (the property he claimed as his new residence)

## TAX COURT

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exceeded \$31,775. The commissioner's witness testified that the basis could be about the same as the basis of Dewes Road # 1 (\$31,775) depending on various factors unknown to him. Appellant's recorded expenses for 1109 Mill Avenue total only \$18,111. No testimony as to cost was offered by the Appellant.

8. For calendar year 1976 the only contested issue is the non-recognition of gain on the sale of the residence at Dewes Road #1. The Court finds that the home was the personal residence of the Appellant and that he occupied it for more than one year.

9. For calendar year 1977, the Appellant has accepted the adjustments made by the Commissioner of Revenue with the exception of the additional \$900 of rental income. At the hearing the Appellant denied receiving the \$900 of additional rental income and the Appellee introduced no evidence to establish the \$900 of additional rental income. The Court finds that there was no unreported additional rental income.

10. With regard to calendar year 1978, the Commissioner's Order is based on unreported additional rental income in the amount of \$4,800 and itemized interest expense deduction in the amount of \$275. At the hearing the Appellant testified that he never received the \$4,800 of additional rental income from the homes indicated in the audit report and the Appellee failed to present any evidence to support the order assessing a tax on unreported additional rental income. The Court finds that there was no unreported additional rental income.

11. With regard to the \$275 deduction claimed as interest expense, the commissioner has conceded the deductibility of the interest and also concedes that he was not prejudiced with respect to that issue by Appellant's failure to answer the discovery questions.

12. The Memorandum is hereby made a part of these findings.

### Conclusions of Law

1. The Motion to Dismiss the Appeals for failure to answer the discovery requests is hereby denied.

2. With regard to calendar year 1976, the Order of the Commissioner of Revenue shall be amended as follows:

The gain on the sale of the house at Dewes Road #1 shall be considered to be long-term capital gain instead of ordinary income. Accordingly, the net taxable income in the Commissioner's Order shall be reduced by the amount of \$3,577.00.

3. For calendar year 1977, the Order of the Commissioner of Revenue is hereby amended as follows:

The amount of additional taxable income is reduced from \$16,258 to \$15,358.

4. With regard to calendar year 1978, the Order of the Commissioner of Revenue is hereby reversed.

LET JUDGMENT BE ENTERED ACCORDINGLY. THE COMMISSIONER IS HEREBY ORDERED TO MAKE THE ADJUSTMENTS ACCORDINGLY. NO PENALTY SHALL BE ASSESSED.

By the Court,  
John Knapp, Chief Judge  
Minnesota Tax Court

### Memorandum

The Motion to Dismiss the Appeals for failure to answer the discovery requests should be hereby denied. The Court finds that with regard to the issue of non-recognition of gain, the Appellee was not prejudiced by the Appellant's failure to answer the interrogatories because the Appellee knew that that would be an issue from the day the Notice of Appeal was filed. With regard to the issue of the cost basis of the house at 1109 Mill Avenue, the Appellant has not met the burden of proving that the cost was as great as or greater than the adjusted selling price of the house at Dewes Road #1, so the Appellee was not prejudiced with regard to that issue. Because the discovery requests were served prior to the filing of the Notice of Appeal for calendar years 1977 and 1978, the discovery requests could not apply to the issues for those years, so the commissioner could not be prejudiced by the failure to answer on those issues.

At the hearing, the Appellant testified that his wife maintained the financial records and that when marital problems developed between the Appellant and his wife, the wife took possession of all of the financial records, and the Appellant has not had access thereto since that time. It is not unusual that when marital problems exist, the business is not very successful and the financial records become a part of the divorce proceedings, so the Appellant's testimony is very credible.

On his 1976 Income Tax Return, the Appellant attached a statement concerning the sale of his personal residence and indicated that he was claiming non-recognition of gain under Section 1034 of the Internal Revenue Code which allows non-recognition of gain on a residence used by the taxpayer as his principal residence for at least a year if within eighteen months after the sale of said residence, a new residence is purchased and used by the taxpayer as his principal residence.

The primary issue with regard to the calendar year 1976 is the non-recognition of gain on the sale of the residence known as

Dewes Road #1. The testimony of the Appellant is that he built the house himself and intended to live in it; that construction was started in July of 1974 and substantially completed in April of 1975; that the Appellant and his wife moved into the house in April of 1975 and both of them continued to reside there until June of 1976 when marital problems developed and the wife moved out of the house, but the Appellant continued to reside there until October of 1976 when the house was sold. The Appellant further testified that he began construction of his new residence at 1109 Mill Avenue N.E. in 1976 and occupied it as his principal residence in December of 1977 and continued to live there until December of 1978. The Appellant, however, failed to establish the cost of the new residence, so he cannot qualify for non-recognition of gain.

The Court finds that on the issue of non-recognition of gain of Dewes House #1 the preponderance of the evidence is in favor of the Appellant. The only evidence to contradict the testimony of the Appellant was that of a Mr. Ken Bracley, an employee of the Department of Revenue, who lives about one-fourth of a mile from the house known as Dewes Road #1. He testified that he saw for sale signs in front of the home but could not remember the dates when those signs appeared. On cross-examination he admitted that he was testifying from memory. It appears to the Court that that evidence was very indefinite and speculative because the house was sold in October of 1976 and the testimony was given in September of 1981.

The Appellee contends that the sale of the Appellant's residence at Dewes Road #1 does not qualify for non-recognition of gain under Internal Revenue Code Section 1034. The Court finds that the sale qualifies for the non-recognition of gain, but the Appellant has failed to show that the cost of the replacement residence at 1109 Mill Avenue exceeded \$31,775, hence, all of the gain on the sale of the old residence was recognized gain subject to long-term capital gain treatment.

The Appellee contends that the Appellant cannot qualify for non-recognition of gain on the old residence because the Appellant is a builder.

It is the opinion of the Court that in spite of the fact that the Appellant is a home builder and has sold several of the houses built and occupied by him in the course of his business, he is entitled to claim one of them as his homestead, as long as he has met the residence and other provisions.

Recognized gain on the sale of a residence, held for more than one year, is entitled to long-term capital gain treatment, so the additional taxable income for calendar year 1976 derived from the sale of the house at Dewes Road #1 shall be one-half of \$7,154.00 or \$3,577.00.

The Appellee contends that because the income tax returns are inconsistent with the testimony of the Appellant at the date of trial, that all of his testimony ought to be disregarded, and he ought to be penalized for the inconsistency. The records, however, indicate that the income tax returns were prepared by H & R Block for each of the years herein issue.

With regard to the additional unreported rental income included in the Commissioner's Orders for 1977 and 1978, the Appellee simply had no proof.

J.K.

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**SUPREME COURT****Decisions Filed Friday, February 12, 1982****Compiled by John McCarthy, Clerk**

81-582 Kimberly K. Cady v. James Leslie Coleman, *et al.*, Arthur, Chapman & Michaelson, P.A., Appellants, and Kimberly K. Cady, v. Arthur, Chapman & Michaelson, P.A., Appellant, and Bradford Wetterlin v. James L. Coleman v. James L. Coleman, *et al.*, Arthur, Chapman & Michaelson, P.A., Appellant. Scott County.

By eliminating the word "giving" from the Minnesota Civil Damages Act, the Legislature intended to insulate all social hosts from liability under the Act.

The furnishing of liquor by a business or professional person to a client at a social function does not constitute a barter.

Reversed. Amdahl, C. J. Took no part, Kelley, J.

81-305/Sp. Archer Daniels Midland Company v. The State of Minnesota ex rel Clyde Allen, Jr., Commissioner of the Minnesota Department of Revenue, Appellant. Hennepin County.

An Act which provides a four-cent per gallon tax reduction in favor of gasohol produced and distilled in Minnesota imposes an impermissible burden on interstate commerce and is unconstitutional under the Commerce Clause. U.S. Const., art. 1, § 8, cl. 3.

## SUPREME COURT

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Severance of the unconstitutional language of the Act is not an appropriate remedy. Minn. Stat. § 296.02, subd. 7 (1980) is invalid in its entirety.

Affirmed in part and reversed in part. Otis, J. Took no part, Kelley, J.

**51087/19 Robert Drazkowski Plutshack, by his natural parent and natural guardian, Christine Drazkowski Plutshack and Christine Drazkowski Plutshack, individually, Appellants, v. The University of Minnesota Hospitals, et al., Dr. William Woods, Dr. Kenneth Swaiman. Hennepin County.**

The record contains no expert testimony sufficient to establish that defendant attending physician failed to comply with the standard of care generally recognized by the medical community as applicable to his treatment of minor plaintiff or that any act or omission by defendant attending physician was the proximate cause of minor plaintiff's injury. Therefore, the trial court correctly granted the motions of defendant attending physician and defendant hospital for directed verdict.

The record contains no expert testimony sufficient to demonstrate that the conduct of either defendant resident physician or defendant nurse was a direct cause of minor plaintiff's injuries. Therefore, the trial court correctly granted the motions of defendant resident physician and defendant nurse for directed verdict.

The trial court correctly directed verdicts for all defendants on plaintiffs' claims of failure to obtain actual consent and negligent nondisclosure.

Affirmed. Peterson, J. Conc. spec., Yetka, J. Took no part, Otis, J. and Kelley, J.

**81-419/Sp. Herbert L. Peterson v. Iowa Mutual Insurance Company, Appellant. Hennepin County.**

Under the Minnesota No-Fault Automobile Insurance Act, Minn. Stat. §§ 65B.41-.71 (1980), an injured person may "stack" the \$200 per week maximum income loss benefits under two or more no-fault coverages applicable to him as an insured on a single priority level to the extent of 85% of the insured's actual gross weekly income loss.

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

**81-763/Sp. Arvin Fabian, et al., v. Reuben Sather, et al., Appellants. Winona County.**

In an action by vendors against vendees for specific performance of a land sale contract or damages for breach of contract, the sale of the land to a third party restricts the vendors' recovery to the liquidated damages provided in the contract.

Reversed and remanded. Peterson, J. Took no part, Kelley, J.

**81-351/Sp. State of Minnesota v. Nicholas L. Stapek, Appellant. Hennepin County.**

Evidence was sufficient to establish defendant's guilt of assault in the first degree, trial court's instructions on the issue of intent were adequate, and other issues raised by defendant are deemed forfeited.

Affirmed. Todd, J.

**81-394 Coon Creek Watershed District, et al., petitioners, Appellants, v. State of Minnesota Environmental Quality Board, et al. Anoka County.**

An order of the Environmental Quality Board requiring the preparation of an Environmental Impact Statement for the repair of an existing drainage ditch is not inconsistent with the statutorily mandated obligation to repair the ditch since the statement is for informational purposes and cannot preclude the repair of the ditch.

The cost of the Environmental Impact Statement shall be assessed in the same manner as other costs incurred in a ditch repair.

Affirmed. Todd, J. Took no part, Kelley, J.

**81-169/Sp. State of Minnesota v. John David Lemire, Appellant. Aitkin County.**

The state presented sufficient evidence on the issue of premeditation to corroborate the testimony of the admitted accomplice as required by Minn. Stat. § 634.04 (1980).

Conviction affirmed. Yetka, J. Took no part, Kelley, J.

**81-400/Sp. James E. Schoenecke v. Melroy Ronningen, Appellant. Olmsted County.**

Verdict in favor of plaintiff for \$122,000 was excessive; case is reversed and remanded for a new trial on damages unless plaintiff consents to a remittitur and entry of judgment for \$50,000.

Reversed and remanded subject to consent to remittitur. Yetka, J. Took no part, Kelley, J.

**81-808/Sp. Michael S. Stolpa, Relator, v. Swanson Heavy Moving Company, et al. Workers' Compensation Court of Appeals.**

Minn. Stat. § 176.041, subd. 4 (1980) extends coverage of the Minnesota Workers' Compensation Act to a nonresident employee injured in this state unless, with full knowledge of his rights, he has filed a claim in another state and has pursued it to

an award, settlement or denial of compensation. The mere acceptance of benefits voluntarily paid by a compensation insurer pursuant to the compensation laws of another state does not preclude coverage of the employee's claim in this state, and he is not required to repay such benefits as a prerequisite to filing a claim petition here.

Reversed and remanded. Yetka, J.

## **Decision Filed Tuesday, February 2, 1982**

81-771/Sp. State of Minnesota v. David Brian Walters, Appellant. St. Louis County.

Where defendant's current offenses were major drug offenses, trial court was justified in departing from presumptive sentence established by Sentencing Guidelines, but the sentences imposed are reduced in length in order to conform with our decision in *State vs. Evans*, 311 N.W.2d 481 (Minn. 1981).

Affirmed as modified. Amdahl, C. J.

## **Decision Filed Thursday, February 4, 1982**

81-1095/Sp. State of Minnesota, Appellant, v. Daniel Lee Hejl. Dakota County.

*Held*, order of district court judges of First Judicial District adopting policy that all proceedings before grand jury, except deliberations and voting, be on the record is not in conflict with Minn. R. Crim. P. 18.05, subd. 1, and therefore is a valid rule under Minn. Stat. § 480.055, subd. 1 (1980).

Affirmed. Todd, J.

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## **STATE CONTRACTS**

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

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

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### **Minnesota Energy Agency Alternative Energy Development Division District Heating Activity**

#### **Notice of Request for Proposals for Assessment of Industrial Cogeneration in Minnesota**

The Minnesota Energy Agency, Energy Analysis Division, is seeking engineering economic and management consultants to provide assistance in assessing the Industrial Cogeneration potential in Minnesota which will be provided under contract, as outlined in detail in the Request for Proposal (RFP) Statement of Work. The formal RFP may be requested and inquiries should be directed to:

Ronald E. Sundberg  
Minnesota Energy Agency  
Energy Analysis Division  
980 American Center Building  
150 East Kellogg Boulevard  
St. Paul, Minnesota 55101

It is anticipated that the activity to accomplish these services will not exceed a total cost to the state of \$25,000. The deadline for the submission of completed proposals will be 4:30 p.m., March 22, 1982.

## **STATE CONTRACTS**

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Contractors with the Minnesota Energy Agency must apply for a Certification of Compliance from the Minnesota Department of Human Rights. All bidders must submit, along with their proposal to the Minnesota Energy Agency, a statement indicating that they have applied. Applications can be obtained by written request from the Minnesota Department of Human Rights, 240 Bremer Building, St. Paul, Minnesota 55101.

### **Iron Range Resources and Rehabilitation Board**

#### **Notice of Request for Proposals for Contractual Food Service Operator**

The Commissioner of IRRRB is seeking proposals from Minnesota food service operators to staff and operate/manage a kitchen/dining area located in the newly constructed ethnic pod area of the Iron Range Interpretative Center, Chisholm, MN.

The purpose of this service will be to provide an ethnic food experience for visitors of the Iron Range Interpretative Center, and to demonstrate the various techniques utilized in speciality food preparation.

For formal REQUEST FOR PROPOSAL documents, interested parties should contact:

Mr. Joseph Drazenovich  
Assistant Director  
Iron Range Interpretative Center  
P.O. Box 392  
Chisholm, Minnesota 55719

Proposals must be submitted no later than April 15, 1982.

Contractor may request renewal of contract for one additional season, upon successful completion of first year's operation.

#### **Notice of Request for Proposals for Contractual Campground Operator**

The Commissioner of IRRRB is seeking proposals from Minnesota campground operators to staff and operate/manage a new 20 unit, primitive campground located adjacent to the Iron Range Interpretative Center, Chisholm, MN.

The purpose of this service will be to provide a generally safe, clean, well maintained camping area for tourists visiting the Iron Range area, and in particular, visiting the Iron Range Interpretative Center.

For formal REQUEST FOR PROPOSAL DOCUMENTS, interested parties should contact:

Mr. Ray Svatos  
Trails Coordinator  
Iron Range Resources & Rehabilitation Board  
P.O. Box 678  
Eveleth, Minnesota 55734

Proposals must be submitted no later than April 15, 1982.

Contractor may request renewal of contract for one additional season, upon successful completion of first year's operation.

# OFFICIAL NOTICES

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

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

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## Department of Commerce Banking Division

### Notice of Intent to Solicit Outside Opinion Concerning Amendments to Rules Governing the Operation of Commercial Banks

Notice is hereby given that the Minnesota Department of Commerce, Banking Division, is soliciting information and opinions from sources outside the agency and is preparing to promulgate amendments to existing rules relating to commercial banks. Rules BD 1-56 are to be reviewed for any necessary or desirable modifications, with a particular view toward removing burdensome or unnecessary requirements.

The State Banking Division 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:

Paige Winebarger, Assistant Commissioner  
Banking Division  
500 Metro Square Building  
Seventh and Robert Streets  
St. Paul, Minnesota 55101  
(612) 297-2548

All statements of information and comment shall be accepted until April 15, 1981. Any written material received by the State Banking Division shall become part of the record in the event that the rules are promulgated.

Michael J. Pint  
Commissioner of Banks

## Department of Commerce Insurance Division

### Meeting Notice

Minnesota Comprehensive Health Association  
Board of Directors  
Tuesday, April 20, 1982  
11:00 a.m.  
Prudential Insurance Company of America  
3701 Wayzata Blvd., 8th Floor  
Minneapolis, Minnesota

Changes in any scheduled meetings and notices of any additional meetings will be posted or otherwise be available upon inquiry at the office of the Insurance Division, and may also be obtained by telephone from the Life and Health Section, telephone (612) 296-2202.

## Department of Education Instruction Division

### Notice of Availability of Federal Funds for Adult Education Special Experimental Demonstration Projects and Teacher Training

The Minnesota Department of Education announces the availability of funds to conduct Special Experimental Demonstration Projects and Teacher Training under Section 310 of Public Law 91-230, whose purpose is to provide funds for:

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“(1) Special projects which will be carried out in furtherance of the title and which:

(A) Involve the use of innovative methods, including methods of teaching persons of limited English speaking ability, systems, materials, or programs which may have national significance or be of special value in promoting effective programs under this title; or,

(B) Involve programs of adult education, including education of persons of limited English speaking ability, which are part of community school programs, carried out in cooperation with other federal, federally assisted, state, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems or people with educational deficiencies; and

(2) Training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purpose of this title.”

Application for grant to carry out the purposes of this Act may be submitted by local educational agencies and by public or private nonprofit agencies, organizations and institutions.

Application procedures and forms may be obtained after March 1, 1982, by writing to: Robert O. Gramstad, Supervisor, Community and Adult Education, State Department of Education, 651-C Capitol Square Building, 550 Cedar St., St. Paul, MN 55101.

All applications must be delivered to the State Department of Education, Community Education Section on or before June 1, 1982.

### **Department of Education Instruction Division**

#### **Notice of Availability of Federal Funds for Adult Education**

The Minnesota Department of Education announces the availability of funds to conduct Adult Education under Public Law 91-230, as amended.

The purpose of Public Law 91-230 is to expand educational opportunities for adults and to encourage the establishment of programs of adult education that will:

“(1) enable all adults to acquire basic skills necessary to function in society,

(2) enable adults who so desire to continue their education to at least the level of completion of secondary school, and

(3) to make available to adults the means to secure training that will enable them to become more employable, productive, and responsible citizens.”

Application for grant to carry out the purposes of this Act may be submitted by local educational agencies and by public or private nonprofit agencies, organizations and institutions.

Application procedures and forms may be obtained after March 1, 1982, by writing to: Robert O. Gramstad, Supervisor, Community and Adult Education, State Department of Education, 651-C Capitol Square Building, 550 Cedar St., St. Paul, MN 55101.

All applications must be delivered to the State Department of Education, Community Education Section on or before June 1, 1982.

### **Department of Education Instruction Division**

#### **Notice of Revisions in the State Plan for Adult Education**

The Community Education Section of the Minnesota Department of Education is revising the three year state plan for implementing Public Law 91-230, the Adult Education Act of 1965, as amended.

Interested persons who wish to review and comment on revised State Plan may receive a copy after March 1, 1982 by writing to: Robert O. Gramstad, Supervisor, Community and Adult Education, State Department of Education, 651-C Capitol Square Building, 550 Cedar St., St. Paul, MN 55101.

To be considered all comments must be returned before April 2, 1982.

## **Public Welfare Department Income Maintenance Bureau**

### **Public Notice Regarding Changes in Minnesota's Medical Assistance Program**

Notice is hereby given by the Minnesota Department of Public Welfare (DPW) to all hospitals, long term care facilities (SNF, ICF, ICF-MR), dentists, physicians, pharmacists and other health care providers that participate in Minnesota's Medical Assistance (MA) program, and to the general public at large, of changes to be made in the coverage of allowable items which will be paid by the MA program *and* the method which will be used to determine the amount that will be paid for those covered items.

These changes are necessary to comply with the federal Omnibus Budget Reconciliation Act of 1981, Public Law 97-35 § 2103, (amended, See 47 *Federal Register* 1386, January 13, 1982) and Minnesota Statutes § 256B.02, subd. 8 (amended, See Minnesota Laws 1981, 3rd Special Session, Chapter 2 § 31).

The effective date of these changes will be April 1, 1982; however, some portions may be implemented at a later date.

This notice presents the changes.

Written comments on the changes and suggestions for implementation may be sent to:

Health Care Programs Professional Services Section  
Minnesota Department of Public Welfare  
P.O. Box 43170  
St. Paul, Minnesota 55164

Comments and suggestions received from the public may be reviewed during normal business hours at:

Health Care Programs Professional Services Section  
Minnesota Department of Public Welfare  
First Floor, Space Center Building  
444 Lafayette Road  
St. Paul, Minnesota 55101

These changes are being published pursuant to federal regulations which govern administration of the Medical Assistance Program, 42 CFR 447.205 (amended, 46 *Federal Register* 58680, December 3, 1981).

#### **Changes in coverage:**

The Commissioner of DPW may establish a formulary of covered drugs. Not all drugs presently paid for will continue to be covered. Only drug products listed in the formulary will be paid by DPW. Specifically *not* to be included in the drug formulary are the following:

- Nutritional products,
- Anorectics,
- Drugs for which medical value has not been established,
- Drugs for which there is no federal funding,
- Over the counter (OTC) drugs,

(payment will continue for the following OTC drugs: Acetaminophen, Antacids, Aspirin, family planning products, insulin, prenatal vitamins, and vitamins for children under the age of seven).

A printed formulary of covered drugs will be distributed to providers as soon as possible. Until the formulary is published, drug coverage—except for the specific exclusions cited above—will remain the same as it is now.

#### **Changes in Reimbursement:**

The basis for determining the amount of payment for a prescription shall be the actual acquisition cost of the drug plus a fixed dispensing fee established by the Commissioner of DPW. Actual acquisition cost is invoice cost including quantity and other special discounts except time and cash discounts.

In addition, whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written" on the prescription as required by Minnesota Statutes § 151.21, subd. 2 (1980).

# OFFICIAL NOTICES

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## Errata

At 6 S.R. 1438, Department of Commerce Notice of Adopted Rules Exempting Insurers from Certain Filing Requirements for Commercial Lines of Insurance, change the date of publication of the proposed rules from October 21, 1981 to October 12, 1981.

STATE OF MINNESOTA  
State Register and Public Documents Division  
117 University Avenue  
St. Paul, Minnesota 55155

## ORDER FORM

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## FOR LEGISLATIVE NEWS

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

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

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

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

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

Legislative Reference Library  
Room 111 Capitol

Interoffice