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Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 6			
48	Monday May 17	Monday May 24	Monday May 31
49	Monday May 24	Friday May 28	Monday June 7
50	Monday May 31	Monday June 7	Monday June 14
51	Monday June 7	Monday June 14	Monday June 21

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

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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

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NOTICE

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

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

The PROPOSED RULES section contains:

- 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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PROPOSED RULES

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

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

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

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

Department of Commerce Insurance Division

Proposed Rules Requiring Annual Audited Financial Reports

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Insurance Division proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Insurance has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0142, subd. 4h (1980).

Persons interested in these rules shall have 30 days to submit comments. 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.

No public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subd. 4-4f.

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

Leo Flaten
Insurance Division
500 Metro Square Building
St. Paul, MN 55101

Authority for the adoption of these rules is contained in Minn. Stat. § 60A.031 and § 60A.13. Additionally, a statement of need and reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Any person who desires to be advised of the submission of these rules to the Attorney General for approval may make this request in writing to the above named person.

Michael D. Markman
Commissioner of Insurance

Rules as Proposed (all new material)

4 MCAR § 1.9120 Authority. Rules 4 MCAR §§ 1.9120-1.9136 are promulgated by the Commissioner of Insurance under Minn. Stat. §§ 60A.031 and 60A.13.

4 MCAR § 1.9121 Purpose and scope. The purpose of 4 MCAR §§ 1.9120-1.9136 is to improve the Minnesota insurance division's surveillance of the financial condition of insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial condition and the results of operations of insurers.

Rules 4 MCAR §§ 1.9120-1.9136 shall not prohibit, preclude, or in any way limit the commissioner from ordering, conducting, or performing examinations of the practices, procedures, financial condition, market conduct, and other aspects of the operations of insurers.

Rules 4 MCAR §§ 1.9120-1.9136 apply to all insurers required under Minn. Stat. § 60A.13, subd. 3a to file a report of their annual audit, except that insurers having direct premiums written in this state of less than \$100,000 in any year and having fewer than 500 policyholders in this state at the end of any year are exempt from the provisions of 4 MCAR §§ 1.9120-1.9136 for that year.

Insurers filing audited financial reports in another state under the other state's requirements of audited financial reports which have been found by the commissioner to be substantially similar to these requirements are exempt from the provisions of 4 MCAR §§ 1.9120-1.9136 if:

A. A copy of the audited financial report, the evaluation of accounting procedures, and systems of internal control report, which are filed with the other state, are filed with the commissioner in accordance with the filing dates specified in 4 MCAR § 1.9123 and 4 MCAR § 1.9130. Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance; and

B. A copy of any notification of adverse financial condition report filed with the other state is filed with the commissioner within the time specified in 4 MCAR § 1.9129.

4 MCAR § 1.9122 Definitions.

A. Terms. Unless the context requires otherwise, the terms defined in B.-G. have the meanings given them.

B. Accountant. "Accountant" and "independent public accountant" mean an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant or firm is licensed to practice. For Canadian and British companies, the term means a Canadian-chartered or British-chartered accountant.

C. Audited financial report. "Audited financial report" includes those items specified in 4 MCAR § 1.9124.

D. Commissioner. "Commissioner" means the Commissioner of Insurance of the State of Minnesota.

E. Examiner. "Examiner" means an examiner of the Insurance Division of the Department of Commerce of the State of Minnesota.

F. Executive officer. "Executive officer" means any individual whose duties relate to active participation in control, supervision, and management of a person, whether incorporated or unincorporated. The term includes a chairman of the board, president, vice-president, treasurer, secretary, controller, and any other individual performing in a similar position.

G. Insurer. "Insurer" means a company required to have an annual audit by Minn. Stat. § 60A.13, subd. 3a.

4 MCAR § 1.9123 Filing and extensions for filing of annual audited financial reports. All insurers shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the commissioner on or before June 30 for the year ending December 31.

Extensions of the June 30 filing date may be granted by the commissioner for 30-day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting the extension and a determination by the commissioner of good cause for the extension.

The request for extension must be submitted in writing not less than ten days prior to the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

4 MCAR § 1.9124 Contents of annual audited financial report. The annual audited financial report shall report, in conformity with statutory accounting practices required or permitted by the commissioner of insurance of the state of domicile, the financial condition of the insurer as of the end of the most recent calendar year and the results of its operations, changes in financial position, and changes in capital and surplus for the year then ended.

The annual audited financial report shall include all of the following:

- A. A report of an independent certified public accountant;
- B. A balance sheet reporting admitted assets, liabilities, capital, and surplus;
- C. A statement of gain or loss from operations;
- D. A statement of changes in financial position;

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

E. A statement of changes in capital and surplus;

F. Any notes to financial statements. These notes shall be those required by generally accepted accounting principles and shall include:

1. a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed under Minn. Stat. § 60A.13, subd. 1 with a written description of the nature of these differences; and

2. a narrative explanation of all significant intercompany transactions and balances; and

G. Supplementary information which includes any additional information which the commissioner may from time to time require to be disclosed.

The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner.

The financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. In the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

The amounts may be rounded to the nearest thousand dollars, and all insignificant amounts may be combined.

4 MCAR § 1.9125 Designation of independent certified public accountant. Each insurer required by 4 MCAR § 1.9123 to file an annual audited financial report must notify the commissioner in writing of the name and address of the certified public accountant or accounting firm retained to conduct the annual audit within 60 days after becoming subject to the annual audit requirement.

Insurers not retaining an independent certified public accountant on the effective date of this rule shall register the name and address of their retained certified public accountant not less than six months before the date when the first certification is to be filed.

The insurer shall obtain from the accountant a letter which states that the accountant is aware of the provisions that relate to accounting and financial matters in the insurance laws and the rules of the insurance division of the state of domicile. The letter shall affirm that opinions on the financial statements will be expressed in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that division, unless exceptions to these practices are appropriate. The letter shall specify all exceptions believed to be appropriate. A copy of this letter shall be filed with the commissioner.

If an accountant who was not the accountant for the immediately preceding filed audited financial report is engaged to audit the insurer's financial statements, the insurer shall notify the division of this event within 30 days of the date the accountant is engaged. The insurer shall also furnish the commissioner with a separate letter stating whether in the 24 months preceding this engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of the former accountant, would have caused him to make reference to the subject matter of the disagreement in connection with his opinion. The insurer shall also in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons that he does not agree. The insurer shall furnish this responsive letter from the former accountant to the commissioner together with its own.

4 MCAR § 1.9126 Qualifications of independent certified public accountant. The commissioner shall not recognize any person or firm as an independent certified public accountant that is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice, or for a Canadian or British company, that is not a chartered accountant.

Except as otherwise provided, a certified public accountant shall be recognized as independent as long as he or she conforms to the standards of his or her profession.

The commissioner, after notice and hearing under Minn. Stat. ch. 15, may find that the accountant is not independent for purposes of expressing an opinion on the financial statements in the annual audited financial report. The commissioner may require the insurer to replace the accountant with another whose relationship with the insurer is independent within the meaning of this rule.

4 MCAR § 1.9127 Consolidated or combined audits. Upon written application and for specified periods, the commissioner may permit an insurer to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements. In such cases, the report shall include an organization chart of the companies together with a columnar consolidating or combining worksheet.

Amounts shown on the audited consolidated or combined financial statement shall be shown on the worksheet.

Amounts for each insurer subject to this rule shall be stated separately.

Noninsurance operations may be shown on the worksheet on a combined or individual basis.

Explanations of consolidating and eliminating entries shall be included on the worksheet.

A reconciliation of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers shall be included on the worksheet.

4 MCAR § 1.9128 Scope of examination and report of independent certified public accountant. Financial statements furnished under 4 MCAR § 1.9124 shall be examined by an independent certified public accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards and consideration should be given to such other procedures illustrated in the "Financial Condition Examiners Handbook," in the 'Examiners Handbook,' issued by the National Association of Insurance Commissioners (Milwaukee, Wisconsin: 1976, as amended) as the independent certified public accountant deems necessary.

4 MCAR § 1.9129 Notification of adverse financial condition. The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to immediately notify in writing an executive officer and all directors of the insurer of the final determination by that independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under examination or that the insurer does not meet the minimum capital and surplus requirement of Minn. Stat. § 60A.07 as of that date.

Any executive officer or director of an insurer required to file an annual audited financial report who received any notification of adverse financial condition from the accountant shall make a written report to the commissioner of the existence of the materially misstated financial condition or the failure to meet the minimum capital and surplus requirements of the commissioner within three business days of the notification.

If the accountant becomes aware of facts which might have affected this report subsequent to the date of the audited financial report filed under this rule, the accountant shall take the action prescribed by section AU561, volume 1 of the 'AICPA Professional Standards,' issued by the American Institute of Certified Public Accountants.

4 MCAR § 1.9130 Evaluation of accounting procedures and system of internal control. In addition to the annual audited financial report, each insurer shall furnish the commissioner with a report of the evaluation performed by the accountant, in connection with the examination, of the accounting procedures of the insurer and its system of internal control.

A report of the evaluation by the accountant of the accounting procedures of the insurer and its system of internal control, including any remedial action taken or proposed, shall be filed annually by the insurer with the division within 60 days after the filing of the annual audited financial report.

This report on internal control shall be in the form prescribed by generally accepted auditing standards.

4 MCAR § 1.9131 Definition, availability, and maintenance of certified public accountant workpapers. Workpapers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the examination of the financial statements of an insurer. Workpapers may include work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of company documents, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of the examination of the financial statements of an insurer and which support his opinion.

Every insurer required to file an audited financial report shall require the accountant, through the insurer, to make available for review by the examiners the workpapers prepared in the conduct of the examination. The insurer shall require that the accountant retain the audit workpapers for a period of not less than five years after the period reported upon.

In the conduct of the periodic review by the examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the insurance division. These copies shall be part of the commissioner's workpapers.

4 MCAR § 1.9132 Exemptions. Upon written application of any insurer, the commissioner may grant an exemption from compliance with the provisions of 4 MCAR §§ 1.9120-1.9136 if the commissioner finds, upon review of the application, that compliance would constitute a financial hardship upon the insurer. An exemption may be granted at any time and from time to time for specified periods. Within ten days from a denial of an insurer's written request for an exemption, the insurer may request in writing a hearing on its application for an exemption. This hearing shall be held in accordance with Minn. Stat. ch. 15.

Upon written application of any insurer, the commissioner may permit an insurer to file annual audited financial reports on

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PROPOSED RULES

some basis other than a calendar year basis for a specified period. No exemption shall be granted until the insurer presents an alternative method satisfying the purposes of this rule. Within ten days from a denial of a written request for an exemption, the insurer may request in writing a hearing on its application. The hearing shall be held in accordance with Minn. Stat. ch. 15.

4 MCAR § 1.9133 Reports prepared in accordance with generally accepted accounting principles. With the commissioner's approval, an insurer may comply with this rule by filing the requisite reports which have been prepared in accordance with generally accepted accounting principles if the notes to the financial statements include a reconciliation of differences between net income and capital and surplus on the annual statement filed pursuant to Minn. Stat. § 60A.13, subd. 1 and comparable totals on the audited financial statements, and a written description of the nature of these differences.

4 MCAR § 1.9134 Examinations. The commissioner or a designated representative shall determine the nature, scope, and frequency of examinations under this rule conducted by examiners under Minn. Stat. § 60A.031. These examinations may cover all aspects of the insurer's assets, condition, affairs, and operations and may include and be supplemented by audit procedures performed by independent certified public accountants. Scheduling of examinations will take into account all relevant matters with respect to the insurer's condition, including results of the National Association of Insurance Commissioner's Insurance Regulatory Information System, changes in management, results of market conduct examinations, and audited financial reports. The type of examinations performed by examiners under this rule shall be compliance examinations, targeted examinations, and comprehensive examinations.

Compliance examinations will consist of a review of the accountant's workpapers defined under 4 MCAR § 1.9131 and a general review of the insurer's corporate affairs and insurance operations to determine compliance with the Minnesota insurance laws and the rules of the insurance division. The examiners may perform alternative or additional examination procedures to supplement those performed by the accountant when the examiners determine that the procedures are necessary to verify the financial condition of the insurer.

Targeted examinations may cover limited areas of the insurer's operations as the commissioner may deem appropriate.

Comprehensive examinations will be performed when the report of the accountant as provided for in 4 MCAR § 1.9128, the notification required by 4 MCAR § 1.9129, the results of compliance or targeted examinations, or other circumstances indicate in the judgement of the commissioner or a designated representative that a complete examination of the condition and affairs of the insurer is necessary.

Upon completion of each targeted, compliance, or comprehensive examination, the examiner appointed by the commissioner shall make a full and true report on the results of the examination. Each report shall include a general description of the audit procedures performed by the examiners and the procedures of the accountant which the examiners may have utilized to supplement their examination procedures and the procedures which were performed by the registered independent certified public accountant if included as a supplement to the examination.

4 MCAR § 1.9135 Canadian and British companies.

A. Annual audited financial report. In the case of Canadian and British insurers, the annual audited financial report means the annual statement of total business on the form filed by these companies with their domiciliary supervision authority and duly audited by an independent chartered accountant.

B. Conformity letter. For these insurers, the letter required in 4 MCAR § 1.9125 shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner under 4 MCAR § 1.9123 and shall affirm that the opinion expressed is in conformity with those requirements.

4 MCAR § 1.9136 Insurers which are not required to file their first audit on June 30, 1982. Notwithstanding the provisions of 4 MCAR § 1.9124 A.-F., an insurer which is not required pursuant to Minn. Stat. § 60A.13, subd. 3a to file its first audit with the commissioner on June 30, 1982, may for its annual filing due on or before June 30, 1983, file:

A. A report of an independent certified public accountant;

B. A balance sheet reporting admitted assets, liabilities, capital and surplus;

C. Any notes to financial statements. These notes shall be those required by generally accepted accounting principles and shall include:

1. a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed under Minn. Stat. § 60A.13, subd. 1 with a written description of the nature of these differences; and

2. a narrative explanation of all significant intercompany balances.

**Department of Public Safety
Bureau of Criminal Apprehension****Proposed Rules Governing the Possession or Ownership of Machine Guns and
Short-Barrelled Shotguns****Notice of Intent to Adopt Rules without a Hearing**

Notice is hereby given that the State Department of Public Safety is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety 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.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to the Department of Public Safety 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. The written request must be specific on which rule(s) a hearing is desired. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the department 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, or persons who wish to receive a copy of this notice and/or a copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

Steven Hennessy
Bureau of Criminal Apprehension
1246 University Avenue
St. Paul, MN 55104

The department's authority to adopt the proposed rules is contained in Minn. Stat. §§ 299C.03 and 609.67, subd. 3, paragraph 3. 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 the Department of Public Safety upon request.

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

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. Minn. Stat. § 10A.01, subd. 11 defines a lobbyist 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* 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. 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.

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption, within the meaning of Minnesota Statutes § 15.0412, subd. 7.

John P. Sopsic
Commissioner of Public Safety

John D. Erskine
Superintendent of the Bureau of Criminal Apprehension

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PROPOSED RULES

Rules as Proposed (all new material)

11 MCAR § 1.3060 Statutory authority. Rules 11 MCAR §§ 1.3060-1.3067 are adopted pursuant to the authority granted to the superintendent of the Bureau of Criminal Apprehension by Minn. Stat. § 299C.03.

11 MCAR § 1.3061 Definitions.

A. Applicability. For the purpose of 11 MCAR §§ 1.3060-1.3067, the following terms have the meanings given them.

B. Approved machine guns and short-barrelled shotguns. "Approved machine guns and short-barrelled shotguns" are these machine guns and short-barrelled shotguns which have been determined by the superintendent to be collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and which are not likely to be used as weapons.

C. Bureau. "Bureau" means the Minnesota Bureau of Criminal Apprehension.

D. Collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and approved machine guns and short-barrelled shotguns not likely to be used as weapons. "Collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and approved machine guns and short-barrelled shotguns not likely to be used as weapons" are firearms which have been determined by the superintendent of the bureau or his delegate pursuant to Minn. Stat. § 609.67, subd. 3, clause (3) to be firearms which appear on the '1981 Curios and Relics List,' issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C., 1981) or on the most current version of this list.

E. Firearm. "Firearm" means:

1. a shotgun having a barrel or barrels of less than 18 inches in length;
2. a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length;
3. a rifle having a barrel or barrels of less than 16 inches in length;
4. a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length;
5. any weapon or device capable of being concealed on the person and from which a shot can be discharged through the energy of an explosive; a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell; weapons with combination shotgun and rifle barrels 12 inches or more, but less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading; and shall include any such weapon which may be readily restored to fire. "Firearm" does not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition;
6. a machine gun; or
7. a muffler or a silencer for any firearm whether or not such firearm is included within this definition.

F. Persons prohibited from receiving firearms. The following persons are prohibited from receiving firearms, including an unserviceable firearm which has a frame or receiver;

1. fugitives from justice (any crime);
2. persons under indictment for, or who have been convicted of, a crime punishable for a term exceeding one year;
3. narcotic addicts or unlawful drug users;
4. persons adjudicated mental defectives or mentally incompetent, or who have been committed to any mental institution;
5. veterans discharged under dishonorable conditions;
6. persons who have renounced their United States citizenship;
7. aliens illegally or unlawfully in the United States; and
8. where the transferor is a firearms licensee, persons under 21 years of age in the case of any firearm other than a shotgun or a rifle, and persons under 18 years of age in the case of a shotgun or a rifle.

G. Superintendent. "Superintendent" means the superintendent of the Minnesota Bureau of Criminal Apprehension.

11 MCAR § 1.3062 Procedures for approval of ownership or possession.

A. Requirements. Before a person may own or possess an approved machine gun or short-barrelled shotgun, the following procedures must be followed.

B. Application. The person shall send to the superintendent a completed Bureau of Criminal Apprehension application form for the ownership or possession of an approved machine gun or short-barrelled shotgun.

C. Fee. The applicant shall send a \$15 nonrefundable fee with each application.

D. Investigation. The applicant shall request the local chief of police or sheriff to conduct a background investigation of the applicant to verify that the applicant is not a person prohibited from receiving firearms. A reasonable fee not to exceed \$25 may be charged to conduct the investigation.

Upon completion of the investigation the chief of police or sheriff shall send a written notice to the superintendent verifying that the applicant is not a person prohibited from receiving firearms.

E. Approval by superintendent. If an applicant meets the requirements of B.-D., the superintendent shall approve the application within 45 days after receiving it and shall send the applicant two copies of the approved application.

F. Taking ownership or possession of firearm. Upon receiving copies of the approved application, the applicant may take ownership or possession of the firearm described in the application. Within 48 hours of taking ownership or possession, the applicant shall send the superintendent one copy of the approved application indicating the date the firearm was transferred and shall certify that the firearm is now owned or possessed by the applicant.

11 MCAR § 1.3063 Denial or revocation of application approval. The superintendent shall deny or revoke approval of the application for ownership or possession of a machine gun or short-barrelled shotgun if:

A. the applicant misrepresents or falsifies information on the application form;

B. the superintendent determines that the firearm is a firearm which appears now or at one time did appear on the '1981 Curios and Relics List,' issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C., 1981) or on the most current version of this list;

C. the applicant uses an approved machine gun or short-barrelled shotgun in the commission of a crime;

D. the applicant is or becomes a person prohibited from receiving firearms; or

E. the applicant fails to notify the bureau within 48 hours that he or she has become a person prohibited from receiving firearms.

11 MCAR § 1.3064 Right to contest decision. An applicant may contest the decision of the superintendent to deny or revoke an application for approval of a machine gun or short-barrelled shotgun. Proceedings shall be conducted pursuant to the Administrative Procedure Act, Minn. Stat. §§ 15.0418-15.0426, and 9 MCAR §§ 2.201-2.222 of the Office of Administrative Hearings.

11 MCAR § 1.3065 Data privacy. All applications, their subsequent approvals or denials, and certification of transfer of any firearms shall be filed with the Bureau of Criminal Apprehension and shall be considered private data, available only to law enforcement officials upon request. An applicant shall be able to review his or her own file.

11 MCAR § 1.3066 Theft, destruction, or transfer. If an approved machine gun or short-barrelled shotgun is stolen, destroyed, or transferred the theft, destruction, or transfer must be reported to the bureau within 48 hours of the occurrence.

11 MCAR § 1.3067 Limited protection of application information. All persons possessing or owning a machine gun or a short-barrelled shotgun prior to the effective date of 11 MCAR §§ 1.3060-1.3067 have 90 days after the effective date to apply for approval. The information contained in an application submitted to the superintendent within 90 days of the effective date of these rules shall not be used against the applicant in any criminal proceeding.

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ADOPTED RULES

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

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

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

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

Department of Administration Telecommunications Division

Adopted Rule Repealing the Intercept Service Requirement for Telephone Exchanges Adjacent to a 911 Service Area But Not Equipped for 911 Service

The rule proposed and published at *State Register*, Volume 6, Number 37, pages 1574-1575, March 15, 1982 (6 S.R. 1574) is now adopted as proposed.

State Board of Education Department of Education School Management Division

Adopted Rule Governing the Capital Loan Program (5 MCAR § 1.0430)

The rule as proposed and published at *State Register*, Volume 6, Number 30, pp. 1342-1343, January 25, 1982 (6 S.R. 1342) is now adopted without modification.

Department of Energy, Planning and Development Energy Division

Adopted Temporary Rules Amending the Minnesota Energy Conservation Service Program

The temporary rules proposed and published at *State Register*, Volume 6, Number 37, pages 1575-1576, March 15, 1982 (6 S.R. 1575) are now adopted with the following modifications:

Temporary Rules as Adopted

6 MCAR § 2.2314 [Temporary] Temporary programs.

D. Approval. The agency shall approve or disapprove a proposed temporary program within 90 days of receiving the temporary program, ~~or later if the person who submitted the proposed temporary program is notified before the end of the original 90-day period.~~ Failure by the agency to approve, disapprove, or notify an applicant within the 90 days constitutes disapproval.

Department of Energy, Planning and Development Bureau of Business Licenses

Adopted Rules Governing Preapplication Conferences on Business Licenses

The rules proposed and published at *State Register*, Volume 6, Number 37, pages 1577-1578, March 15, 1982 (6 S.R. 1577) are now adopted as proposed.

Department of Energy, Planning and Development Energy Division

Adopted Rules Relating to Reducing Demand and Increasing Supply of Petroleum Products during an Energy Supply Emergency

The rules proposed and published at *State Register*, Volume 5, Number 52, pages 2110-2129, June 29, 1981 (5 S.R. 2110) are now adopted with the following modifications:

Rules as Adopted

6 MCAR § 2.3101 Authority. These rules are authorized by Minn. Stat. § 116H.09 (~~1980~~). These rules will also meet, in part, federal requirements set forth in the Emergency Energy Conservation Act of 1979, Section ~~102 212~~, 42 United States Code, ~~Sections 8511 to 8544 (1979)~~ Section 8512 (1976 and Supplement III 1979).

6 MCAR § 2.3102 Purpose. These rules identify measures that may be used in the event of a petroleum supply emergency. The further purposes of these rules are: to protect the health and safety of the citizens of the state by ensuring that certain priority petroleum users have sufficient fuel to conduct essential activities; to facilitate the distribution of supplies to the public in a fair manner; to identify and authorize the actions to be undertaken by governmental agencies in an energy supply emergency; to describe the responsibilities of major employers and school district authorities in petroleum supply emergency planning and implementation; to establish an appeals system and procedures for exemptions from and exceptions to emergency measures; and to authorize the state executive to provide for the public health, safety, and welfare during an energy supply emergency.

6 MCAR § 2.3103 Applicability of rules. These rules shall apply:

- A. generally, during a declared energy supply emergency- (see 6 MCAR § 2.3106);
- B. generally, during a declared energy supply alert (see 6 MCAR § 2.3105);
- C. to the Minnesota Department of Energy Agency, Planning and Development when the agency department is preparing to recommend that an energy supply alert or an energy supply emergency be declared.

6 MCAR § 2.3104 Definitions. For purposes of 6 MCAR §§ 2.3101-2.3121 the terms defined in this rule have the meanings given them:

- A. "Agency" means the Minnesota Energy Agency;
- ~~B.~~ "Agriculture" means activities of establishments primarily engaged in food production, processing and sale classified under the industry code numbers specified below as set forth in Standard Industrial Classification Manual, 1972 edition and the transport of goods and commodities for the below defined activities:
 1. Major Group 01-Crops, except for industry code nos. 0132 tobacco, and 0181 ornamental floriculture and nursery products.
 2. Major Group 02-Livestock, except for animal specialties, industry code nos. 0271, 0272, and 0279.
 3. Major Group 07-Agricultural Services, except for industry code nos. 0742 veterinary services for animal specialties, 0752 animal specialty services, 0781 landscape counseling and planning, 0782 lawn and garden services, and 0783 ornamental shrub and tree services.
 4. Major Group 09-Fishing, Hunting, and Trapping.
 5. Major Group 20-Food and Kindred products, except for all industry codes under Group 208 Beverages, and 2065 candy and other confectionary products.
 6. Group 514-Groceries and Related Products (all industry codes found thereunder).
 7. Group 515-Farm Product Raw materials (all industry codes found thereunder).
 8. Major Group 54-Food Stores.

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ADOPTED RULES

~~C.~~ B. "Assistant ~~director~~ commissioner" means the assistant ~~director~~ commissioner of the Minnesota Department of Energy Agency, Planning and Development who heads the ~~Data and Analysis~~ Energy Division;

~~D.~~ C. "Baseline consumption" means the reasonable estimate of the amount of motor fuel consumed by employees or students in commuting to and from the worksite plus the amount of motor fuel consumed for a school's or an employer's travel, over a period which represents the normal level of operation. For determining baseline consumption any of the following methods shall constitute a representative period for the purpose of these rules:

1. the preceding 12 months, or
2. the most recent 3-year average, or
3. a 12-month "rolling base" where the most recent month's data is added and the thirteenth month's data deleted.

~~E.~~ D. "Btu" means British thermal unit, a unit of energy measurement used for comparative purposes;

~~F.~~ E. "Cargo, freight and mail hauling ~~by truck~~, including newspaper deliveries" means: motor carriers for hire, licensed and operating under Minn. Stat. §§ ~~221.004~~ 221.011 to 221.293 including independent owner-operators transporting goods under a lease or contract indicating their "for hire" status, where the lease can be produced by the driver-operator; local cartage carriers, licensed and operating under Minn. Stat. § 221.296; interstate motor carriers, operating in Minnesota under Minn. Stat. §§ 221.61 to 221.68; mail hauling by any motor vehicle owned and operated by the U.S. Postal Service; and newspaper delivery by a motor vehicle identified as a newspaper carrier; trucks that have truck bodies specifically designed for cargo and freight hauling and are commercial vehicles as defined in H.; and rail, barge and ship transportation of cargo or freight;

~~G.~~ F. "Carpool" means a continuing travel arrangement by which three or more persons travel together in a vehicle owned or rented by one or more of such persons;

~~H.~~ G. "Commercial building" means a building all of whose occupants are engaged in commerce, unless residential occupants have separate heating controls;

~~I.~~ H. "Commercial vehicles" means vehicles registered and licensed in the commercial class with the Division of Driver and Vehicles Services of the Department of Public Safety, or vehicles which by their design, size or company identification or by the presence of specialized equipment, tools, or instruments of the trade or profession, or other evidence of commercial use are obviously being used for commercial purposes;

I. "Commissioner" means the Commissioner of the Minnesota Department of Energy, Planning and Development;

J. "Company-owned vehicles" means passenger automobiles, vans, and light trucks owned or leased by the employer;

K. "Consumer" means a person that consumes fuel oil, or motor fuel whether diesel fuel, gasoline, propane or alcohol;

L. "County or municipal fuel coordinator" means a person who has been appointed by the county board or city council to act as local fuel allocation resource person;

M. "Demand" means the quantity of products or services for which there are willing and able purchasers;

~~N.~~ D. "Director" "Department" means the ~~Director of the~~ Minnesota Department of Energy Agency, Planning and Development;

O. "Division" means the Division of Emergency Services of the Department of Public Safety;

P. "Division Director" means the Director of the Division of Emergency Services;

Q. "Electric utility" means an entity engaged in the generation, transmission, or distribution of electric energy for sale;

R. "Emergency vehicle" means any of the following vehicles: a vehicle of a fire department or fire fighting unit; a publicly-owned law enforcement vehicle or privately-owned vehicle used by a law enforcement officer for police work under agreement, express or implied, with the local authority; a vehicle of a licensed emergency ambulance service, whether publicly or privately owned; an emergency vehicle of a municipality, department or public service corporation including emergency services vehicles approved by the chief of police of a municipality, the county sheriff, or the division director; a vehicle of a utility or contractor while performing emergency repairs or maintenance for electric, water, waste treatment, natural gas or telecommunications utilities and end-user primary services, and petroleum, petroleum products or natural gas pipelines or facilities; a vehicle of the state, county, municipal, or other subdivision of government used for snow removal, emergency road and traffic signal repair or search and rescue operations, or privately-owned vehicles of a contractor under contract to perform these services;

D. "Employer-provided parking" means a space such as a lot, garage, or other space, or portion thereof, which is used for the parking of commuter vehicles, and which is wholly or partly owned or leased by an employer or otherwise made available to

its employees, except that this term shall not include park-and-ride facilities or customer parking provided by a retail or service establishment;

T. "Employment site" means a building, facility, complex or site at which employees work or study, or any combination of such buildings or sites which are geographically close;

U. "Energy production" means transportation of energy or primary fuels by pipeline, transmission line, rail, barge or a motor carrier of energy or primary fuel included in the definition of cargo, freight and mail hauling or other trucks and the refining, processing, production and distribution of coal, natural gas, petroleum or petroleum products, shale oil, nuclear fuels and electrical energy;

V. "Environmental standards" means the laws and regulations, both federal and state, intended to protect the environment;

W. "Essential government services" means court and judicial activities, jails and prisons, meetings of duly elected political officials, operations of the Division of Emergency Services and the Emergency Operating Center, hearings of Local Energy Conservation Boards and the Office of Administrative Hearings, minimum services to provide AFDC, SSI and Social Security checks and other welfare payments including food stamps, and activities which provide life-sustaining services;

X. "Extracurricular activities" means school-sponsored activities requiring transportation off-campus, except for the daily transportation of students to and from school;

Y. "Flexible work hours" or "flextime" means a work system in which employees at an employment site have some discretion in their choice of working hours;

Z. "Forecast" means a projection of future demand or supply for a specified time period;

AA. "Fuel oil" means a liquid or liquifiable petroleum product with a flashpoint above 100 degrees F which is used to generate heat or power including middle distillate oil or residual oil;

BB. "Health and residential care services" means hospitals, nursing homes, penal institutions, and all types of residential treatment centers including drug/alcoholism treatment centers, residential mental health centers, and residential care centers for the retarded or handicapped;

CC. "Highways" means interstate, trunk, county state-aid, county, and municipal state-aid highways in Minnesota, as defined in Minn. Stat. § 160.02, subs. 2-5 and 7 (~~1980~~), and the Federal Aid Highways Act of 1956 23 United States Code, section 101 (1980);

DD. "Homeowner" means a person who has a vested legal or beneficial interest, jointly or severally, in a dwelling which is occupied by that person;

EE. "Jitney" means a spontaneous carpool formed by driving along an existing transit route and picking up riders for a fare or participating in a telephone ride exchange system. Jitneys supplement existing transit service;

FF. "Licensed motor vehicle dealer" means a motor vehicle seller or lessor licensed to do business under Minn. Stat. § 168.27, subs. 2 to ~~25~~ (~~1980~~);

GG. "Middle distillate" means a derivative of petroleum, including kerosene, home heating oil, range oil, stove oil, and diesel fuel, which has a fifty percent boiling point in the ASTM D86 standard distillation test falling between 370 degrees and 700 degrees F, except that kerosene-base and naphtha-base jet fuel, heavy fuel oils as defined in ~~VV F-815C~~ of ASTM D-396, grades #4, 5, and 6, intermediate fuel oils (which are blends containing #6 oil), and specialty items such as solvents, lubricants, waxes, and process oil are excluded;

HH. "Military uses" means the activities of the armed forces of the United States and of the Minnesota Department of Military Affairs, the Office of Adjutant General, military reservations, installations, armories, air bases, and facilities owned or controlled by the state for military purposes and includes the national guard, the state guard, and any other organization or components of the organized militia authorized by Minn. Stat. chs. 190 to ~~193~~ (~~1980~~), known as the Military Code;

II. "Moped" means a pedal bicycle or similar two-wheel vehicle propelled by a motor;

JJ. "Motorcycle" means a vehicle with two wheels in tandem, propelled by an internal combustion engine, and sometimes having a sidecar with a third wheel;

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ADOPTED RULES

KK. "Motor fuel" means a mixture of volatile hydrocarbons, suitable for operation of an internal combustion engine;

LL. "Motor vehicle owner" means a person owning or renting a motor vehicle, or having exclusive use thereof, under a lease or otherwise, for a period greater than seven days;

MM. "Park-and-ride facility" means a parking facility the use of which is limited exclusively to the parking of commuter vehicles whose occupants transfer at the facility to transit or paratransit services;

NN. "Passenger transportation services" means: conventional public transit service which operates on a fixed route and is available to the public for a fare, intercity bus transportation, vanpools, subscription buses, tour and charter bus transportation, bus transportation of pupils for educational purposes, taxicabs licensed to conduct business in a municipality, air and rail passenger transportation except for air charter services, and special transportation services for the elderly or handicapped;

OO. "Permit-sticker" means a self-adhesive tag issued by the Department of Public Safety to designate the weekday on which a vehicle issued that sticker is prohibited from being operated;

PP. "Person" means an individual, firm, estate, trust, sole proprietorship, partnership, association, company, corporation, governmental unit or subdivision thereof, or a charitable or educational institution;

QQ. "Plant protection" means minimum plant maintenance necessary to secure buildings and prevent damage to equipment or plant property from inclement weather or loss of essential processes;

RR. "Prohibited day" means the day for which a vehicle owner has been issued a permit-sticker, designating it a "no-driving" day for that vehicle;

SS. "Residence" means the place where a natural person lives, including hotels and motels and buildings being used as emergency housing facilities;

TT. "Residual fuel oil" means the fuel oil commonly known as: No. 4, No. 5 and No. 6 fuel oils; Bunker C; Navy Special Fuel Oil; and all other fuel oils which have a fifty percent boiling point over 700 degrees F in the ASTM D-86 standard distillation test;

UU. "Sanitation services" means: the collection and disposal for the public of solid or liquid wastes and hazardous wastes, whether by public or private entities; the maintenance, operation and repair of liquid purification and waste facilities; and the provision of a water supply by public utilities, whether private or publicly owned and operated;

VV. "Shortage" means a situation in which demand exceeds supply and normal market forces will not act to equalize supply and demand within a reasonable period;

WW. "Staggered work hours" means employee starting and quitting times stipulated at step intervals by the employer so that work arrival and departure times of employees on a single shift are spread over a period of at least two hours;

XX. "State set-aside" means the amount of an allocated product from the total supply of a supplier made available to the state to meet emergencies and hardship needs under Minn. Stat. § 116H.095 (~~1981~~);

YY. "Subscription bus" means a transit service in which employers or groups of employees contract with a public or private bus operator to provide daily commuter service for a group of subscribers on a prepaid or daily fare basis, following a fixed route and a schedule tailored to meet the needs of the subscribers;

ZZ. "Supplier" means a firm or a part of a subsidiary of a firm (other than the Department of Defense) which presently supplies, sells, transfers, or otherwise furnishes (as by consignment) a petroleum product to wholesale purchasers or end users, including refiners, natural gas processing plants or fractioning plants, importers, resellers, jobbers and retailers;

AAA. "Telecommunications" means the repair, operation and maintenance of voice, data, telegraph, video and similar communication services for the public by a communications common carrier or by a firm providing the same service in direct competition with a communications common carrier;

BBB. "Tenant" means a person who occupies (but does not own) a dwelling under an oral or written agreement, lease, or contract, for a period of time, which requires the payment of rent;

CCC. "Vanpool" means eight or more persons commuting on a daily basis to and from work in a vehicle with a seating arrangement designed to carry eight to fifteen adult passengers; and

DDD. "Vehicle lessee" means a person, firm or corporation possessing a motor vehicle by lease.

6 MCAR § 2.3105 Energy supply alert. An energy supply alert shall be declared to inform Minnesota citizens of a potential energy shortage, encourage conservation, and initiate a state of readiness for the shortage.

A. An energy supply alert may be declared when the ~~agency~~ department forecast indicates a reasonable likelihood that an energy supply shortage will occur within six months from the date of declaration.

B. The ~~director~~ commissioner shall have sole responsibility for declaring an energy supply alert.

6 MCAR § 2.3106 Energy supply emergency. An energy supply emergency is a state of declared emergency resulting from a shortage of energy resources, including petroleum products, natural gas, or electricity.

A. Minnesota Department of Energy Agency, Planning and Development. When the ~~agency's~~ department's forecast shows that short-term demand for a fuel or fuels exceeds the forecast of short-term supply and that a supply shortage will occur within three months, the ~~director~~ commissioner may recommend that an energy supply emergency be declared by submitting a written statement to the executive council or legislature. The statement shall include the factors the commissioner considered in reaching a decision to recommend that an emergency be declared and the reasons for the recommendation.

B. The executive council or legislature. The executive council (consisting of the Governor, the Lieutenant Governor, the Attorney General, the Auditor, the Treasurer, and the Secretary of State) or the legislature has responsibility for declaring an energy supply emergency.

1. An energy supply emergency automatically expires in 30 days, unless renewed by the legislature. Each renewed energy supply emergency may not continue for longer than 30 days, unless otherwise provided by law. Minn. Stat. § 116H.09, subd. 5 (~~1980~~).

2. Emergencies may be declared for all or part of the state and measures may be invoked accordingly. The declaration of emergency shall define the geographic area included in the energy supply emergency.

3. The declaration shall be promptly disseminated and brought to the attention of the general public by the executive council or legislature, whichever body declares the emergency. The Energy Supply Emergency Resolution shall be promptly filed with the division, the Agency department and the Secretary of State.

6 MCAR § 2.3107 Operating organization during an emergency.

A. Energy emergency operating center. During a declared energy supply emergency, the division will set up an energy operating center.

1. The director of the emergency operating center will be the division director. The division director shall oversee the implementation of the emergency plan.

2. The emergency operating center will be located at a site designated by the division director and staffed by personnel from the division, the agency department and other state agencies as deemed necessary by the division director and approved by the Governor.

B. Minnesota Department of Energy Agency, Planning and Development.

1. The ~~agency~~ department shall assist the division by analyzing the energy supply situation, evaluating alternative courses of action included in the emergency plan, and advising on the proper time and sequence for implementing emergency measures.

2. The ~~agency~~ department shall select and recommend to the Governor the least restrictive measures specified in 6 MCAR § 2.3114 ~~A. to C.~~, 6 MCAR § 2.3120 ~~A. to H.~~ and 6 MCAR § 2.3121 ~~A. to D.~~ capable of eliminating a fuel shortage.

3. The assistant ~~director of the agency~~ commissioner shall review employer and school district conservation plans and certify those which meet the requirements set out in 6 MCAR § 2.3120 B. or C.

4. The ~~director~~ commissioner shall make the final decision on each appeal taken from measures contained in these rules.

C. Emergency services.

1. The division shall implement the energy emergency plan and coordinate the emergency operations of government agencies involved in energy supply emergency actions.

2. The division shall use the regional and local fuel coordinators to coordinate emergency operations throughout the state.

3. By January 1, 1983, the division of emergency services shall develop an internal management and operations plan for implementing the measures contained in these rules.

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ADOPTED RULES

D. The Governor may order any state agency or department to carry out the measures contained in these rules under the powers given the Governor in the Minnesota Civil Defense Act, Minn. Stat. ch. 12.

6 MCAR § 2.3108 Local energy conservation board.

A. Each county and each city of the first class shall create a local energy conservation board to hear requests for exemptions or exceptions to the measures listed in 6 MCAR §§ 2.3114 A. ~~and B., C.1. and 4., 2.3120 A. to H.,~~ except B. and C., and 2.3121 ~~A. to E.~~

1. The Governor may order ~~the creation of~~ additional local energy conservation boards to be established upon the ~~agency's department's~~ determination that additional boards are necessary to insure compliance with the timing provisions in 6 MCAR § 2.3109 C.

2. The appointment of additional local energy conservation boards and their conduct shall be governed by the procedures set forth in B. and 6 MCAR §§ 2.3108 B. and § 2.3109.

B. Members.

1. The chair of the county board of commissioners shall appoint a five-member county local energy conservation board which includes two elected officials from the county or municipalities within the county, a health professional, the county fuel coordinator and a member of the public. If the ~~chair of the county commissioners is unable to fill~~ fuel coordinator is not able to sit on the local conservation board ~~from this list, an additional members member~~ shall be selected from the public. The county attorney shall advise the local energy conservation board.

2. For cities of the first class and other designated municipalities, the chair of the city council shall appoint a five-member municipal local energy conservation board which includes two elected city officials, the city fuel coordinator, a health professional, and a member of the public. If the ~~chair of the city council fuel coordinator is unable not able to fill~~ sit on the local conservation board ~~from this list, an additional members member~~ shall be selected from the public. The city attorney shall advise the local energy conservation board.

C. Appointments to the local energy conservation board shall be ~~named~~ made when an energy supply alert or energy supply emergency is declared. The appointer shall make reasonable efforts to avoid any conflict of interests in appointing the members of the local energy conservation board.

D. Three members shall constitute a quorum. The chair of the local energy conservation board shall be designated by the appointing authority.

6 MCAR § 2.3109 Appeals.

A. An appeal shall be delivered by mail or in person to the following location:

1. An appeal of mandatory measures, except those described in 6 MCAR §§ 2.3114 C. 2. and 3. and 2.3120 B. and C., shall be heard by the local energy conservation board and should be directed to the county courthouse, or the mayor's office, whichever is appropriate.

2. An appeal from a decision not to certify an employer or school district conservation plan and an appeal from an order to implement an employer or school plan shall be heard by a hearing examiner appointed by the chief hearing examiner and shall be directed to the Office of Administrative Hearings, Room 300, 1747 University Avenue, Saint Paul, Minnesota 55104 Summit National Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415.

3. An appeal of an order to curtail delivery of fuel oil, 6 MCAR § 2.3114 C. 3., or an order to adopt temporary rules for relaxation of environmental standards 6 MCAR § 2.3114 C.2., and an appeal of priority status shall be heard by a hearing examiner appointed by the chief hearing examiner and shall be directed to the ~~State~~ Office of Administrative Hearings, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104 Summit National Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415.

~~4. An appeal from the petroleum supply emergency conservation rules shall be decided by the director and shall be directed to the Minnesota Energy Agency, 980 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101.~~

B. Content of appeal.

1. An appeal from an action taken pursuant to a declared energy supply emergency or under authority of these rules, shall be in writing and signed by the appellant. The appeal shall state:

a. full identification of appellant and where appellant can be located to receive notice of decision;

b. the action from which the appeal is made, including the individual or unit of government taking the action, and the date and nature of the action;

- c. the bases of the appeal, including the reasons the appellant believes the action to be unjust or unwise;
- d. the names and addresses of persons known to the appellant who might be adversely or beneficially affected by the outcome of the appeal;
- e. the nature of the relief sought, whether reversal, modification, or some other relief.

2. The appeal of a decision not to certify an employer or school district conservation plan or of an order to implement all or any part of an approved conservation plan shall include a description of the existing or proposed conservation programs through which the employer or school district claims compliance with 6 MCAR § 2.3120 B. or C. In the case of an appeal from a decision not to approve 6 MCAR § 2.3120 B.9.a. employer plans (submitted after an energy supply emergency is declared), the appeal shall also contain documentation of the methodology on which the claim of motor fuel savings or program performance is based and a calculation of appellant's baseline consumption.

C. Timing and procedures.

1. Within three working days after receipt of an appeal, the local conservation board or hearing examiner, whichever is appropriate, shall set a hearing date. The hearing shall be held as soon as practicable but not later than seven working days after receipt of the appeal, unless appellant requests a later hearing date. The chair of the local conservation board (or designate), or the hearing examiner, shall notify all known affected persons, either verbally or in writing, of the appeal and the time and place for the hearing, not less than two working days before the hearing. An appeal shall be considered received when it has arrived at the appropriate location designated in ~~6 MCAR § 2.3109~~ A. A local energy conservation board may convene at any location within its jurisdiction for expediting appeals and decreasing the distance to the hearing for appellants.

2. ~~The "Rules of Procedure for Contested Cases" found at 9 MCAR §§ 2.201-2.222 shall govern the conduct of the appeals.~~ Appeals shall be governed by the Administrative Procedure Act, Minn. Stat. §§ 15.0411-15.052 and the rules of the Office of Administrative Hearings (9 MCAR §§ 2.201-2.299), except that during an energy supply emergency the provisions of 6 MCAR § 2.3109 shall supercede the above-cited rules wherever the two conflict with one another.

3. The parties to an appeal from actions taken during a declared energy supply emergency shall be the appellant and the Emergency Operating Center. Appeals from a decision not to certify an employer or school district conservation plan shall name the assistant ~~Director~~ commissioner as a party to the appeal.

4. A party may be represented by counsel.

5. An appellant subject to provisions of these rules must comply with all applicable mandatory measures or requirements pending a final decision on the appeal. A final decision shall be made under ~~6 MCAR § 2.3109~~ E.

6. Informal disposition of an appeal or any issue in an appeal may be made at any point in the proceeding by stipulation, agreed settlement, or consent order between the appellant and the emergency operating center. In the case of employer and school district conservation plans, the assistant ~~director~~ commissioner shall have the power to informally dispose of an appeal by agreement or consent order.

7. Failure of an appellant to appear after timely notice is sufficient cause for denial of an appeal.

8. The failure of the emergency operating center to appear at a hearing of a local energy conservation board on an appeal from an emergency measure shall not constitute a default or bar the ~~director~~ commissioner from reversing the board's decision so long as the ~~director~~ commissioner complies with the timing provisions in ~~6 MCAR § 2.3109~~ E.3.

9. The hearing examiner or local energy conservation board may order a prehearing conference to be held at any time prior to a hearing, if a conference may simplify the issues or provide an opportunity for settlement. If a prehearing conference is ordered, notice of the time and place of the conference shall be served on all parties to the appeal not less than two working days before the date of the conference.

10. Appeals shall not be heard if received more than ten working days after the termination or expiration of the energy supply emergency.

D. Hearings

1. An appellant has a right to a hearing before the local energy conservation board, or the hearing examiner, whichever is appropriate. (See ~~6 MCAR § 2.3108~~ A.) At the hearing the parties may present and cross-examine witnesses, and present written evidence, rebuttal testimony and argument with respect to the issue or issues raised in the appeal.

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ADOPTED RULES

2. The local energy conservation board or the hearing examiner shall prepare an official record of each hearing. A party requesting a verbatim transcript of the hearing ~~may~~ shall bear the expense of preparing the transcript.

3. The chair of the local energy conservation board and the hearing examiner shall use procedures set by the Office of Administrative Hearings at the hearing. The hearing examiner or local conservation board may prohibit devices which interfere with the hearing and may evict persons who disrupt the hearing.

E. Decision.

1. No factual information or evidence which is not part of the record shall be considered by the board or the hearing examiner in deciding an issue in an appeal, except that official notice may be taken of pertinent ~~fact~~ facts.

2. Within two working days after the hearing is closed, the local conservation board or the hearing examiner shall issue a recommended decision in writing, including the findings and conclusions on which the decision is based. A copy of the recommendation shall be served by first class mail on all parties to the appeal and delivered to the ~~director~~ commissioner with the whole record of the appeal. Service is effective on the postmark date.

3. The ~~director~~ commissioner may affirm or reverse a decision of a local conservation board or a hearing examiner or may remand the appeal for further hearing on specified parts. The ~~director~~ commissioner must notify the appellant of an intent to reverse or remand a decision within two working days after receipt of the recommended decision. The ~~director~~ commissioner shall issue a written statement setting forth the grounds for reversing a recommended decision no later than five working days after receipt of the recommendation, and a copy of the statement shall be served on the appellant and sent to the local conservation board or hearing examiner by first class mail. Failure of the ~~director~~ commissioner to give timely notice of intent to reverse or remand a recommended decision will act to automatically affirm the recommended decision.

4. The appellant may seek judicial review of a final decision of the ~~director~~ commissioner in accordance with the Minnesota Administrative Procedure Act, Minn. Stat. §§ 15.0411 ~~to .052 (1980)~~ -15.052.

6 MCAR § 2.3110 Penalties.

A. Penalties for the violation of any provision of the plan are set out in Minn. Stat. § 116H.15 ~~(1980)~~.

B. Any person who violates the plan or knowingly submits false information in any report required by the plan shall be guilty of a misdemeanor. Maximum penalty is \$500 or 90 days or both. Each day of violation shall constitute a separate offense.

C. The plan may be enforced by injunction, action to compel performance or other appropriate action in the district court of the county where the violation takes place. The existence of an adequate remedy at law shall not be a defense to such an action.

D. A court which finds that a person has violated a requirement of the plan or has knowingly submitted false information in any report required by the plan, or has violated a court order issued pursuant to the plan may impose a civil penalty of not more than \$10,000 for each such violation. These funds are payable to the general fund in the state treasury.

6 MCAR § 2.3111 Priority uses of fuel oil.

A. Purpose. The priority ranking set out below, and the allocation and conservation measures contained in 6 MCAR § 2.3114 ~~A. to C.~~, are intended to reduce the demand for petroleum products used for heating and power generation and ensure that the necessary fuel requirements of higher priority consumers are met before the lower priority consumers.

B. Priority uses. In an energy supply emergency resulting from a shortage of fuel oil, highest priority uses are those essential for the health and safety of the citizens of the state. Uses within categories are not ranked by preference.

1. First priority fuel oil uses are:

- a. Health and residential care services;
- b. Residential heating;
- c. Passenger transportation;
- d. Plant protection;
- e. Emergency vehicles;
- f. Telecommunications;
- g. Energy production;
- h. Agriculture;
- i. Sanitation services; and
- j. Essential government services.

2. Second priority fuel oil uses are those necessary to minimize the economic disruption of a fuel oil shortage. Second priority fuel oil uses are:

- a. Cargo and freight hauling, except for the first priority uses as defined in ~~6 MCAR § 2.3111~~ B.1.
- b. Personal motor transportation. Diesel powered automobiles shall be subject to all the provisions of the motor fuel measures described in ~~6 MCAR § 2.3111~~ 2.3120 and 6 MCAR § 2.3121.

3. Third priority uses are those not essential for the immediate health and safety of the citizens of the state. These include:

- a. Schools and religious institutions;
- b. Government, except those services listed in ~~6 MCAR § 2.3111~~ B.1.;
- c. Commerce, except those services listed in ~~6 MCAR § 2.3111~~ B.1.;
- d. Industry, except those services listed in ~~6 MCAR § 2.3111~~ B.1.

4. In an energy supply emergency, suppliers shall be requested to deliver fuel oil to higher priority consumers before lower priority consumers, where no practicable substitute fuels are available.

5. Vehicles considered to be transporting agricultural products must have the words "first priority agricultural product" on their bill of lading or must be visibly transporting first priority agricultural products.

~~5-~~ 6. Fuel oil users may apply for state set-aside product if fuel oil becomes otherwise unobtainable, according to state set-aside application procedures ~~under 6 MCAR §§ 2.0104 to 2.0107~~ developed according to Minn. Stat. § 116H.095. Preference shall be given higher priority consumers over lower priority consumers in the assignment of state set-aside product.

6 MCAR § 2.3112 Priority uses of motor fuel.

A. Purpose. The priority ranking set out below and the supply management and conservation measures contained in ~~6 MCAR §§ 2.3120 A. to H. and 6 MCAR § 2.3121 A. to E.~~ are intended to reduce the demand for motor fuels and ensure that the necessary fuel requirements of first priority consumers are met before lower priority consumers.

B. Priority uses. In an energy supply emergency resulting from a shortage of gasoline, diesel fuel, or other petroleum product used as a motor fuel, higher priority uses are those necessary for protecting the health and safety of the citizens of the state, and minimizing the economic disruption of the state's economy. Uses within priority categories are not ranked according to preference.

1. First priority motor fuel uses are:

- a. Military uses;
- b. Emergency vehicles;
- c. Energy production;
- d. Sanitation services;
- e. Telecommunications;
- f. Agriculture;
- g. Passenger transportation;
- h. Cargo, freight, and mail hauling ~~by truck~~, including newspaper deliveries; and
- i. Aviation ground support vehicles.

2. Exemptions granted in ~~6 MCAR §§ 2.3120 A. to H., and 6 MCAR § 2.3121 A. to D.~~, are based on the above list of first priority uses.

3. First priority consumers may apply for state set-aside product as provided ~~under~~ by Minn. Stat. § 116H.095 ~~(1984)~~, if fuel supplies become otherwise unavailable. Applications for state set-aside shall be made according to set-aside application procedures ~~under 6 MCAR §§ 2.0104 to 2.0107~~ adopted according to Minn. Stat. § 116H.095. Preference shall be given first priority motor fuel consumers in assignment of state set-aside product.

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ADOPTED RULES

4. Users claiming an exemption under these rules or operating a vehicle under an exempt status must do so in good faith. Abuse of a vehicle's exemption status will constitute a violation of these rules and subject the user to the penalties described in 6 MCAR § 2.3110.

5. When a motor fuel is also used as a home heating fuel and that specific fuel is in short supply, the fuel oil priority rankings described in 6 MCAR § 2.3111 shall apply.

6 MCAR § 2.3113 **Severe shortage.** If the ~~director~~ commissioner determines that the supply shortfall of petroleum and petroleum products is so severe that the existing production and distribution system is incapable of providing adequate supplies to all first priority consumers of motor fuel or diesel fuel, then the ~~director~~ commissioner shall advise the Governor that deliveries to otherwise priority consumers be curtailed, so that higher priority consumers will be provided the necessary fuel to continue essential operations. The Governor may order the curtailment of priority consumers when in the Governor's judgment, the available supply best serves to preserve the health and safety of the citizens of the state when put to a higher priority use.

6 MCAR § 2.3114 **Fuel oil emergency measures.** Upon declaration of an energy supply emergency for petroleum, the Governor shall select from the following measures to reduce the shortage of fuel oil.

A. Voluntary measures:

1. Homeowners and renters shall be requested to turn their thermostats back to between 62 degrees Fahrenheit and 66 degrees Fahrenheit during the day and 60 degrees Fahrenheit and 58 degrees Fahrenheit during the night and unoccupied hours, and shall be requested to set back water heater thermostats to between 105 degrees Fahrenheit and 115 degrees Fahrenheit (or the lowest setting). Residences occupied by persons for whom such a measure endangers health shall be warned not to comply with this measure. Such persons include the elderly and sick and children under the age of one.

2. Voluntary industrial, commercial, government, and residential conservation targets shall be established to reduce energy usage, including electricity and natural gas, especially during periods of peak usage.

3. Commercial and industrial establishments shall be requested to reduce their hours of operations where this action saves energy.

4. Commercial and industrial users shall be requested to release fuel oil from inventory supplies.

a. The ~~Fuel Allocation Rules of Procedure (6MCAR §§ 2.0101-2.0107)~~ procedures for state set-aside allocation adopted according to Minn. Stat. § 116H.095 will be used to allocate voluntarily released inventory.

b. Supplies shall be directed to deliver fuel oil supplies consisting of voluntary releases according to the system of priorities described in 6 MCAR § 2.3111 B.

5. Business, industrial and government institutions shall be requested to close nonessential buildings.

6. Public information efforts shall be used to instruct Minnesotans in fuel oil, natural gas and electricity saving measures. Regular information up-dates regarding the status and severity of the shortage shall be issued.

B. Mandatory measures.

1. Commercial buildings shall be ordered to comply with the standards that were set in the Emergency Building Temperature Restrictions (EBTR), 10 Code of Federal Regulations Part 490 (1979). Buildings which were exempted under EBTR are exempted from this rule.

2. Smoking within buildings shall be prohibited and reduction of the amount of outside air entering the building ventilation systems may be ordered.

3. Electric utilities with oil-fired generating facilities which are members of the Mid-Continent Area Power Pool shall be ordered to use oil of a quality not suitable for home heating or to shut down these plants and purchase power from the pool when power from nonpetroleum-fired generating facilities is available from the pool.

4. Fuel oil suppliers shall be ordered to stop deliveries to large users (1000 gallon or larger storage tanks) until those users have less than one week's fuel oil supply on hand.

5. Business, industrial and government institutions which now burn middle distillate, natural gas, or propane and which have the capacity to burn residual oil shall be ordered to convert to residual oil during the emergency, unless such action is specifically prohibited by other law or rule of the Pollution Control Agency or other agency. Each firm or institution required to convert to residual oil shall be notified at least ten days prior to the effective date of the measure of the state's intent to implement this measure.

C. When the ~~agency~~ department determines that actions listed in 6 MCAR § 2.3114 A. and B. have not been or will not be sufficient to eliminate the shortage the following measures may be selected by the Governor:

1. Owners/operators of commercial, industrial, and government buildings shall be ordered to reduce heating thermostats to 62 degrees Fahrenheit during the day where such action does not violate ~~Minnesota~~ rule MOSHC 44F. 41(f) of the Department of Labor and Industry, and 50 degrees Fahrenheit at night or during unoccupied periods.

2. Temporary rules shall be ordered adopted or rules may be ordered suspended to relax environmental standards, where such action would yield significant fuel oil savings.

3. Delivery of fuel oil supplies to specific ~~industries~~ industrial sectors, including commerce and government, shall be ordered to be curtailed according to the following criteria. A curtailment order shall be in writing signed by the division director, and shall be delivered by registered mail to firms in the ~~industry~~ industrial sectors and area suppliers at least ten days prior to the effective date of the measure.

a. Order of curtailment will be based on an industry's energy-labor ratio, defined as the sum of natural gas and fuel oil consumption Btu's per year per employee. The ~~industry~~ industrial sector with the highest energy-labor ratio will be the first to be curtailed, and so on. Such action will be rescinded in reverse order according to the industry's energy-labor ratio.

b. First priority uses under 6 MCAR § 2.3111 B. will be the last to be curtailed. Second priority uses will be curtailed after third priority uses.

c. A firm within an industrial sector may be exempted from curtailment of fuel oil deliveries if it can demonstrate ~~it has reached the 1980 energy conservation targets established by the Department of Energy in 1977, under the Energy Policy and Conservation Act of 1975, if applicable, and that its energy-labor ratio is below the industry average. If no energy conservation targets exist, the firm must prove that its energy-labor ratio is significantly below the industry average of the industrial sector~~ because of conservation or conversion efforts. Exceptions may be granted on appeal pursuant to 6 MCAR § 2.3109.

d. A firm's energy-labor ratio shall be determined by dividing the consumption of natural gas and fuel oil per employee by the ratio of its local degree days to the statewide average degree days of 8400. The 30-year average of degree days shall be used.

e. The order of curtailment and energy-labor ratios for ~~industry grouping~~ industrial sector groupings and associated ~~S.I.C.~~ standard industrial classification codes will be compiled by the ~~agency~~ department and published biennially in the State Register during the month of October.

4. Homeowners and renters may be requested to close homes and move in with friends, relatives, or into emergency shelters. The emergency operating center shall assist in this effort by designating shelters, aiding in securing homes, and providing emergency transportation.

5. Actions available for implementation under ~~6 MCAR § 2.3114 A. and B.~~ will remain available under ~~6 MCAR § 2.3114 C.~~

~~6 MCAR § 2.3120 Motor fuel emergency measures.~~ Upon declaration of an energy supply emergency based upon a petroleum shortage, the Governor shall select from the following measures to reduce a motor fuel shortage.

A. Public information measure.

1. This measure is intended to conserve motor fuel through voluntary public conservation in response to a declared energy emergency, and through broad public application of vehicle efficiency improvements and ridesharing promoted through public service announcements, conservation demonstrations, and dissemination of energy-related literature.

2. Measure requirements.

a. The emergency operating center shall prepare and issue news releases to news media throughout the state containing at least the following:

- (1) The specific cause or causes of the gasoline or petroleum shortage;
- (2) ~~Agency~~ Estimates by the department of the shortfall of supplies expected for Minnesota;
- (3) ~~Agency~~ Estimates by the department of the probable duration of the energy emergency; and
- (4) A list of specific actions taken and measures imposed to reduce shortage.

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ADOPTED RULES

b. Owners and operators of diesel-powered automobiles may be requested to substantially reduce or discontinue use of their diesel vehicles during severe fuel oil shortages.

c. The emergency operating center shall make available to large worksites, schools and local energy coordinators, literature which relates vehicle fuel economy to driving practices and vehicle maintenance.

3. The emergency operating center shall provide public service announcements to the media which emphasize the importance of individual and corporate efforts in conserving motor fuel and provide specific conservation tips.

B. Employer-based motor fuel conservation measure.

1. The purpose of this measure is to conserve motor fuel by requiring certain employers to reduce employee commuting and business-related motor fuel consumption in an energy supply emergency.

2. Applicability.

a. The following employers are required to comply with the provisions of this measure:

(1) Employers who have employment sites where 100 or more persons are employed during the course of any 24-hour period during a normal work week.

(2) All educational institutions at the post-secondary school level with a total combined student ~~facility~~ facility commuting population of 200 or more persons, including colleges, universities, and vocational schools.

(3) State, county, and municipal governments who have employment sites where 50 or more persons are employed.

b. Employers having fewer employees at a location shall be encouraged to adopt strategies listed under this subsection or implement any other conservation activity which reduces employee commuting and business-related motor fuel consumption.

c. Technical assistance in the preparation of emergency motor fuel conservation plans will be provided by the ~~agency~~ department upon request.

3. Employer plans may be submitted to the ~~agency~~ department for each applicable site or in conjunction with a business consortium, community, local, municipal or county-wide plan, so long as each employer subject to this rule identifies the conservation strategies adopted for each work site and the program elements listed under 6 MCAR § 2.3120 B.7.

4. Employers may choose to submit energy conservation plans to the ~~Agency~~ department before the declaration of an energy emergency in the form and manner provided in paragraphs 5. or 6.

5. Employer emergency motor fuel conservation plan.

a. Employers may submit an emergency motor fuel conservation plan that demonstrates how employee commuting and business travel motor fuel consumption would be reduced during an energy supply emergency. The ~~employee~~ employer may choose conservation strategies which achieve the required reduction.

b. Employer plans must contain conservation strategies which taken together would reduce an employer's baseline consumption by 15 percent.

c. Employers submitting self-styled emergency motor fuel conservation plans shall include:

(1) a calculation of their baseline consumption as defined in 6 MCAR § 2.3104 ~~D~~ C,

(2) the expected motor fuel savings attributed to ~~each~~ the selected strategies, and

(3) the plan elements described in 6 MCAR § 2.3120 B.7.

d. Employers will be credited for travel reduction actions taken prior to submission of their plans that yield ongoing fuel savings.

e. The assistant ~~director~~ commissioner may decline to certify an employer plan submitted under this paragraph which fails to empirically support the level of savings attributed to each of the proposed activities. Self-styled employer plans may contain any of the strategies provided in paragraph 6.

6. Employer motor fuel reduction strategies.

a. Employers shall select at least four strategies from the Categories I and II, but in no case less than one from Category I.

b. Category I Strategies:

(1) Establish a carpool program for employees. An employer rideshare program may be independently-sponsored

or provided in conjunction with a local or community ridesharing program. A rideshare program must minimally provide for: promotion of ridesharing through company bulletins, advertisements, and policies; the capability to match employees to carpools through rideboards, computer listings, or other methods which provide information necessary to match rideshare applicants; and a rideshare coordinator ~~and~~ who will be responsible for the sponsored program.

(2) Sponsor an employee vanpool program. An employer may purchase, rent, lease, or otherwise provide employees with vans for commuting to and from work. The employer may demonstrate an equivalent level of employee participation in an independent or employee-owned vanpool, but in any case shall maintain a participation rate of at least seven percent of total employment to qualify as providing a vanpool program.

(3) Provide an auxiliary transportation service (e.g., subscription bus or shuttle service) or participate in a consortium of two or more employers to provide the service. A qualifying auxiliary transportation service shall consist of:

(a) ~~vehicle(s)~~ Vehicles with a minimum carrying capacity of 20 passengers.

(b) a participation rate ~~equal to~~ of 50 percent of employees who live within a three mile radius of the work site, or the equivalent number, and

(c) at least one commuter check point at least five miles from the work site.

Employer-sponsored rideshare programs which fulfill the requirements of ~~6 MCAR § 2-3120 B.6.b.~~ will be certified by the ~~agency~~ department. Employers may issue "identifying" rideshare stickers to qualifying employees' vehicles. Rideshare vehicles will be eligible to purchase fuel as priority vehicles under the flag system described in ~~6 MCAR § 2-3120 F.~~ and will be exempt from the odd-even purchase restriction described in ~~6 MCAR § 2-3120 D.~~

d. Category II strategies:

(1) Adopt and enforce a parking management strategy which provides for preferential parking for high occupancy vehicles in employer parking lots or subsidizes at least 20 percent of the cost of contract parking in independently operated parking facilities for employee carpools, or both.

(2) Prohibit the use of company-owned vehicles for single-occupancy commuting and adopt a policy of using company vehicles for employee carpools.

(3) Purchase an electric or electric-hybrid vehicle.

(4) Promote transit use by employees through direct sale of transit passes at the work site, fare subsidies, or display of direct and connecting routes serving the work site.

(5) Provide facilities which promote employee commuting by bicycle or moped. These facilities might include:

(a) indoor or sheltered bicycle parking,

(b) high security bicycle parking,

(c) showers and dressing areas for bikers.

(6) Participate with a rideshare agency to provide jitney service to persons requesting travel to a destination on or near the route taken for business purposes. An employer-owned or employee-owned vehicle used for business purposes may be used for the jitney service.

(7) Institute flexible or staggered work hours.

(8) Participate in an independently-sponsored truck and bus fuel economy project which offers both energy-conscious-driver education and instruction on fuel-economizing vehicle maintenance and accessories. Employers choosing this strategy must maintain a fleet of at least ten vehicles used for cargo and freight hauling.

7. An employer submitting an emergency motor fuel conservation plan according to ~~6 MCAR § 2-3120 B.5.~~ or 6. shall identify in its plan the following:

a. The carpool, vanpool or subscription bus program sponsored or subscribed to, and an estimate of the number of employees currently using and expected to use such services.

b. Title of the person or persons responsible for supervising each plan component.

c. The internal media to be used to inform employees of the employer's program;

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ADOPTED RULES

d. The administrative assistance and inhouse resources that the employer will provide for employee ridesharing services;

~~f.~~ e. The schedule for implementing chosen strategies; and

~~g.~~ f. The personnel (by title or position) that will perform essential plant protection for the firm during a driving ban.

8. Employers shall institute all strategies contained in an approved employer conservation plan when the Governor orders the employer-based motor fuel conservation measure.

9. Employers who do not have an approved emergency motor fuel conservation plan before the declaration of an energy supply emergency for motor fuel shall:

a. Submit to the ~~agency department~~ within ~~fifteen~~ 15 days after declaration of an energy supply emergency for motor fuel a plan to reduce baseline consumption by at least ~~fifteen~~ 15 percent over a period of three months or longer, or

b. Institute a compressed work week pursuant to an Executive Order of the Governor that designates the weekday on which employers not qualifying under 6 MCAR § 2.3120 B.5., 6., or 9.a., shall not perform or have an employee perform any activity related to the business except where:

~~(a)~~ (1) Business- or employment-related activity can be performed at an employer's or employee's place of residence;

~~(b)~~ (2) Activities required in certain industrial processes must operate continuously to prevent long term or irreparable damage to a system or process; and

~~(c)~~ (3) Plant protection requires a minimum level of attention or surveillance.

c. The following businesses or governmental activities shall be exempt from a compressed work week regardless of 6 MCAR § 2.3120 B.9.:

(1) Public or private services essential to public health and safety such as health and residential care facilities, medical facilities, law enforcement activities, and emergency services;

(2) Agriculture;

(3) Energy production;

(4) Telecommunications; and

(5) Sanitation services.

10. The emergency operating center shall publicly announce the implementation of the employer-based conservation measure at least ten days prior to the effective date of the measure.

C. School conservation measure.

1. The purpose of this measure is to conserve motor fuel by requiring schools to adopt strategies to reduce student commuting and school-sponsored activities in an energy supply emergency.

2. Applicability.

a. ~~Each~~ All school district districts, as defined in by the education code, Minn. Stat. §§ 122.01 to 122.541 (1980) chs. 120-129, and nonpublic school schools, as defined in Minn. Stat. § 123.932, subd. 3 (1980), which has have a combined student-staff population of 100 persons or more, ~~is~~ are required to comply with this measure.

b. The boards of all school districts, defined and empowered under the education code, Minn. Stat. chs. 120 to 129 (1980), and nonpublic school authorities, shall be responsible for submitting plans under this rule.

3. School boards shall submit to the ~~agency department~~ within 18 months after the effective date of these rules, or within 45 days after declaration of an energy supply emergency, whichever comes first, an emergency motor fuel conservation plan as defined in paragraphs ~~six~~ 6. or ~~seven~~ of this rule 7.

4. Nonpublic schools may fulfill the requirements of this rule by submitting a plan to the ~~agency department~~ in one of the following forms:

a. A school-specific plan, or

b. A school association plan that contains strategies adopted by member schools, or

c. A signed agreement with a school district which states the nonpublic school's strategies and the person or position responsible for implementation of strategies adopted by the private school.

5. School districts or nonpublic school associations shall submit either a self-styled conservation plan as provided in paragraph 6. of this rule or a plan structured from the strategies provided in paragraph 7.

6. School emergency conservation plan: Option A.

a. School districts may submit a self-styled conservation plan including any conservation strategies that taken together would reduce baseline consumption by at least 15 percent during an energy supply emergency.

b. Self-styled conservation plans shall include:

- (1) a calculation of the baseline consumption, defined in 6 MCAR § 2.3104 ~~D. C.~~,
- (2) the expected motor fuel savings attributed to each selected strategy, and
- (3) the plan elements described in ~~6 MCAR § 2.3120 C.8.~~

c. School districts will be credited for travel reduction actions taken prior to submission of their plans that yield ongoing motor fuel savings.

d. The assistant ~~director~~ commissioner may decline to certify a school district or association plan submitted under this rule which fails to empirically support the savings attributable to each of the proposed actions. Self-styled school plans may include any of the strategies provided in ~~paragraph 7. of this rule.~~

7. School emergency conservation plan: Option B reduction strategies.

a. School districts shall select at least three strategies from the following categories, provided that at least one strategy is from Category I.

b. Category I strategies. School districts shall implement Category I strategies upon the selection of this measure by the Governor in an energy supply emergency.

(1) Prohibit student parking on school grounds and request local authorities to pass or enforce parking restrictions in areas adjacent to a school for the duration of the emergency. Exemptions from the parking prohibition may be granted to students who:

- (a) have no alternative transportation to school; or
- (b) have special medical needs that prevent use of alternative methods of traveling to school; or
- (b) have special medical needs that prevent use of alternative methods of traveling to school; or
- (c) have job requirements that demand access to automobile transportation; or
- (d) are members of a carpool registered with the school rideshare coordinator.

(2) Postpone or cancel extracurricular activities (including athletic events) until the termination of an energy supply emergency for motor fuel.

(3) Cancel two school days for each 30-day declared energy emergency period.

c. Category II strategies. School districts choosing Category II strategies (1), (2), (3), and (6) shall implement these strategies prior to or within 3 months after submitting their conservation plans to the ~~agency~~ department.

(1) Establish or sponsor a student/staff rideshare program. A student/staff rideshare program may be organized independently or in conjunction with a local or community rideshare program. A rideshare program must provide for: promotion of ridesharing through school policies and newspapers or other publications, the capability to match students or staff carpools through rideboards, manual or computer listings, or other methods which provide information necessary to match rideshare applicants, and a school rideshare coordinator who will be responsible for the school ridesharing program.

(2) Adopt and enforce a parking management strategy which gives preferential parking to high occupancy vehicles in student parking lots of requires fees for parking on school grounds.

(3) Provide indoor or sheltered bicycle parking with a capacity for at least five percent of the student body.

(4) Eliminate on-the-road driver education for the period of the emergency.

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(5) Cancel or reschedule some extracurricular activities. Selection of this strategy is not permitted if Category I — strategy (2) has been chosen and applies when the Governor orders the school conservation measure.

(6) Participate in an independently-sponsored school bus fuel economy program.

8. Emergency motor fuel conservation plans submitted by school districts shall include:

- a. the title of the person or position responsible for implementing the plan during an energy supply emergency for motor fuel;
- b. the internal media to be used to inform school staff and students of a school district program measure; and
- c. the implementation schedule for category II strategies (1), (2), (3) and (6).

9. School districts shall implement all or part of their plans as specified by the Division director upon order of the Governor.

D. Odd-even purchase requirement measure.

1. The purpose of the odd-even purchase requirement is to conserve motor fuel and facilitate the orderly purchase of motor fuel by alternating the days of purchase eligibility.

2. Applicability.

a. Retail sales and purchases of motor fuel shall be restricted to even-numbered days of the month for persons in possession of vehicles whose license plate numbers end in one of the even digits 0, 2, 4, 6, 8; and to odd-numbered days of the month for persons in possession of vehicles whose license plate numbers end in the odd digits 1, 3, 5, 7 and 9.

b. Specialty and personalized license plates which display no ending numeral are deemed to be "odd" for purposes of the purchase requirement.

c. The restrictions in this rule shall not apply on the thirty-first day of any month or on the twenty-ninth day of February in a leap year.

3. Exemptions. The following vehicles shall be exempt from the odd-even purchase requirement. Motor fuel may be purchased for them on any day of the week.

a. Vehicles being driven for any first priority use defined in 6 MCAR § 2.3112. For the odd-even purchase requirement, vanpools will be those vehicles either displaying a "vanpool" designation issued by a vanpool leasing agency, vanpool services agency, or employer, or carrying at least eight passengers on a work commuting trip.

b. Ridesharing vehicles identified by employers with state certified conservation plans, as described in ~~6 MCAR § 3-2120~~ B.6.b.

c. ~~Vehicles being used for Commercial purposes~~ vehicles, as defined in 6 MCAR § 2.3104 ~~L. H.~~

d. Vehicles operated by a handicapped person and displaying a handicapped license plate or other special identification.

e. Vehicles with out-of-state license plates.

f. Motorcycles and mopeds.

g. Vehicles not licensed for highway use.

h. Vehicles held for sale by a licensed motor vehicle dealer in the ordinary course of business.

i. Vehicles being operated by individuals under emergency circumstances which in the judgement of the retailer demand an exception. If such an exception is granted by the retailer, the license number and signature of the person granted the exception shall be obtained.

E. Minimum purchase requirement measure.

1. The purpose of this measure is to decrease vehicle lines at motor fuel retail outlets by reducing the frequency of fillups.

2. Measure requirements. Motor fuel shall not be sold, dispersed, or otherwise transacted by a motor fuel retailer for use in any vehicle unless:

a. The amount transacted and dispersed is at least five gallons.

b. In the event the quantity purchased is less than the five gallon minimum, the purchaser shall pay the retailer an additional amount so that the total transaction price is equal to the stated pump price times the five gallon minimum.

c. In any single transaction, not more than six gallons of motor fuel may be sold or dispensed into a container, other than the fuel tank of a vehicle, to be transported away from the premises of the retail seller. Such containers must meet applicable safety requirements.

3. A person selling motor fuel in transactions to which provisions of this section apply shall display at the point of sale notice of such provisions.

4. Both the motor fuel retailer and the vehicle operator are required to comply with the provisions of this section.

5. Exemptions. The following users are not required to purchase a minimum amount:

a. Vehicles being driven for first priority uses, as defined in 6 MCAR § 2.3112. For the minimum purchase requirement, vanpools are those vehicles either displaying a "vanpool" designation issued by a vanpool leasing agency or vanpool services agency, or carrying at least eight passengers on a work commuting trip.

b. Motorcycles and mopeds and similar three-wheeled vehicles.

c. Out-of-state licensed vehicles.

d. Vehicles held for sale or lease by licensed motor vehicle dealers in the ordinary course of business.

e. Vehicles being operated by individuals under emergency circumstances which in the judgment of the retailer demand an exception. If such an exception is granted by the retailer the license number and signature of the person granted the exception shall be obtained.

F. Flag requirement for motor fuel retailers.

1. The purpose of this measure are to signal to motorists availability of motor fuel for purchase at stations through the display of flags and to permit retailers to limit sales to priority users only.

2. Each motor fuel retail station shall clearly indicate its motor fuel supply and servicing status by displaying a flag of one of the three colors listed below. ~~The flag should be clearly visible from at least 100 yards in each direction of the station.~~

a. A green flag indicates that motor fuel is available to the public subject to the purchase restrictions imposed by these rules. A station flying a green flag cannot show preference to any customer, except that emergency vehicles may be allowed to move to the front of an existing line to be fueled.

b. A yellow flag indicates that motor fuel is available only to first priority vehicles, as defined in 6 MCAR § 2.3112, and to ridesharing vehicles which have been identified by employers according to the terms and provisions of a state-certified conservation plan, as described in ~~6 MCAR § 2.3120 B.~~ A station flying a yellow flag shall not show preference in the sale of motor fuel to any priority vehicle.

c. A red flag indicates a station is out of fuel and/or is closed. No motor fuel may be dispensed from a station flying a red flag, except to emergency vehicles, as defined in 6 MCAR § 2.3104 R.

3. Flags shall be square and at least two feet by two feet but no greater than three feet by three feet in size. They shall be made of cloth or plastic. Flags shall be located on the boulevard or near enough to the street to allow visibility of at least 100 yards in each direction of the station.

G. Motor fuel availability measure.

1. The purpose of this measure is to assure that motor fuel is available for purchase at key locations throughout the state 24 hours a day and that these locations and their hours of operation are locally publicized.

2. Motor fuel retailers who have historically remained open 24 hours a day and provided emergency road service may apply for state set-aside product assignment according to the state set-aside application procedures authorized by Minn. Stat. § 116H.095 and ~~6 MCAR §§ 2.0104 to 2.0107.~~

3. The emergency operating center shall publicize the location of the stations participating in the availability program in local newspapers. This information will also be supplied to the AAA of Minnesota (American Automobile Association) and the ~~Department of Economic Development's~~ Development Division's Tourist Information Center, both of which provide motor fuel availability information.

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H. Strict enforcement of posted highway speed limits.

1. The purpose of this measure is to conserve motor fuel by strictly enforcing the current maximum speed limit on state highways.
2. Motorists shall strictly obey the maximum legal speed limit. Violations of the maximum legal speed limit during a declared energy supply emergency shall be subject to the additional penalties provided in 6 MCAR § 2.3110.
3. The Governor shall request state, county, and municipal law enforcement agencies to intensify speed limit enforcement through personnel assignments and increased road surveillance.

6 MCAR § 2.3121 Severe motor fuel emergency measures. When the ~~agency~~ department determines that the measures listed in 6 MCAR § 2.3120 ~~A. to H.~~, have not eliminated or will not eliminate the shortage of motor fuel, the Governor may order any of the following measures.

A. Vehicle permit-sticker measure.

1. This measure is intended to conserve motor fuel by prohibiting the use of vehicles for one day per week.
2. Applicability.
 - a. Vehicle owners shall apply to the Department of Public Safety for a no-driving-day-designation permit-sticker. The applicant may select any day (Monday through Sunday) as the no-driving-day for his/her vehicle but must choose the same day for all vehicles owned. The owner must prominently display the sticker on each vehicle owned and driven during the term of this measure.
 - b. A vehicle rented or leased for a period exceeding seven days shall be considered owned by the lessee for purposes of this measure.
 - c. Upon the effective date of the vehicle permit-sticker requirement, all Minnesota-licensed motor vehicles subject to the requirement must display a permit-sticker in the lower right-hand corner of the front windshield.
3. Exemptions.
 - a. Vehicles being driven for any first priority use defined in 6 MCAR § 2.3112;
 - b. Vehicles held for sale or lease by a licensed motor vehicle dealer in the ordinary course of business;
 - c. ~~Motorcycle~~ Motorcycles and mopeds;
 - d. Short-term rental vehicles; and
 - e. Such other vehicles as the Governor may determine.
4. Vehicle owners operating a motor vehicle under one of the qualifying exemptions listed above must apply to the Division of Driver and Vehicle Services (DDVS) of the Department of Public Safety for an exempt sticker. Exempt stickers issued by the DDVS must be prominently displayed on the vehicle for which the exempt permit was issued.
5. Vehicle rental agencies must apply for "exempt" stickers for vehicles rented for periods less than one week. Upon approval of a rental agency's application, DDVS will exempt stickers for designated rental vehicles. Vehicles rented or leased for use predominantly in Minnesota for periods exceeding seven days must be registered by the lessee.
6. The Governor may waive the requirement for the display of exempt permit-stickers for any vehicle class listed under paragraph three (3).

~~B. Recreational vehicle ban measure—Type I.~~

- ~~1. This measure is intended to conserve motor fuel by prohibiting the operation of certain recreational vehicles upon public roads and lands for limited period during an energy supply emergency.~~
- ~~2. Measure requirements for a Type I recreational vehicle ban.~~
 - ~~a. The use and operation of self-propelled vehicles with living quarters, designated and registered as class RV vehicles with the DDVS, and vehicles with living quarters, commonly non-motorized trailers, designated and registered as class RL vehicles, shall be prohibited for a period not to exceed 15 days during any 30 day declared energy emergency. A Type I ban may, however, be renewed for the maximum 15-day period for each 30-day period the energy supply emergency remains in effect.~~
 - ~~b. The division director shall issue a statement to news media at least seven days prior to the effective date of the ban, explaining the class of vehicles subject to the ban, the duration of the ban, the penalties for violation of the ban, exemptions to the ban, the probable enforcement strategies to obtain compliance with this measure, and the appeals procedure~~

for obtaining exception to the measure. The division director's statement is to receive widest possible distribution to inform the public of the ban.

e. ~~Exceptions. Parties may apply to the local energy conservation board for an exception to this measure. Upon a determination by the board that the applicant should be granted an exception to the ban, the board shall recommend to the division director that an exempt sticker be issued to the applicant. The division director, or designate, shall deliver to the applicant within three days after receipt of the local conservation board's favorable recommendation, an exempt sticker which must be displayed for the duration of the ban. The division director, or designate, shall not deliver an exempt sticker to the applicant, if the director serves notice of his/her intent to reverse the recommendation of the local energy conservation board as provided in 6 MCAR § 2.109 E.3.~~

~~C. Recreational vehicle ban measure — Type II.~~

~~1. The use and operation of snowmobiles upon public lands, rights-of-way, roads, trails, and waters subject to the state's proprietary interest, shall be prohibited for a period not to exceed 15 days during any 30-day declared energy supply emergency. A type II ban may, however, be renewed for the maximum 15-day period for each 30-day period an energy supply emergency remains in effect.~~

~~2. The division director shall issue a statement to news media at least seven days prior to the effective date of the ban, which explains the class of vehicles subject to the ban, the geographic scope of the ban, the duration of the ban, the penalties for violation of the ban, any exemptions to the ban, the probable enforcement actions being taken to ensure compliance with the measure, and the appeals procedure for obtaining an exception to the measure. The division director's statement is to receive widest possible distribution to inform the public of the ban.~~

~~3. Exemptions. Parties who demonstrate that their snowmobiles are used for essential personal transportation or predominantly for commercial purposes, or that no practical alternative transportation exists, shall be granted exceptions to the ban by the local energy conservation board. Parties may apply for exceptions to this measure according to the appeals procedure described in 6 MCAR § 2.3109. Upon a determination by the board that an applicant should be granted an exception to the ban, the board shall recommend to the division director that an exempt sticker be issued to the applicant. The division director, or designate, shall deliver to the applicant within three days after receipt of the local conservation board's favorable recommendation, an exempt sticker which must be displayed for the duration of the ban. The division director, or designate, shall not deliver an exempt sticker to the applicant, if the director serves notice of his/her intent to reverse the recommendation of the local energy conservation board as provided in 6 MCAR § 2.3109 E.3.~~

~~D. B. Speed limit reduction measure.~~

~~1. This measure is intended to conserve motor fuel by reducing the maximum speed limit on all highways in Minnesota.~~

~~2. The Governor upon the advice of the agency department shall order the Commissioner of Transportation to set a lower speed limit on all highways in Minnesota. The Commissioner of Transportation shall lower the speed limit during an energy supply emergency pursuant to Minn. Stat. § 169.141 (1980).~~

~~3. Violation of the maximum limit during an energy supply emergency for motor fuel shall carry the additional penalties as provided in 6 MCAR § 2.3110.~~

~~4. The Governor may request state, county, and municipal law enforcement agencies to intensify speed limit enforcement activities through personnel assignments and increased road surveillance efforts.~~

~~E. C. Driving ban measure.~~

~~1. This measure is intended to conserve motor fuel by prohibiting the use and operation of all non-exempt motor vehicles for a specified 24-hour period.~~

~~2. Upon the agency's department's determination that a 24 hr. driving ban is necessary to reduce the demand for motor fuel, the Governor may order an emergency driving ban. Upon the Governor's order, the division director shall issue the order and a statement to the news media to be promptly disseminated and brought to the attention of the public. The statement shall state the designated date of the ban, the emergency services which will remain available during the ban, the enforcement actions to be taken, and the penalties imposed for violation of the ban. The statement shall be released at least five days prior to the imposition of the driving ban.~~

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3. It shall be unlawful for anyone to operate a Minnesota-registered and licensed motor vehicle on public roads during the period of driving ban.
4. Exemptions. The following motor vehicle uses shall be exempt from a driving ban:
 - a. Emergency vehicles;
 - b. Sanitation services vehicles;
 - c. Aviation ground support vehicles;
 - d. Vehicles identified as required in 6 MCAR § 2.3120 B.7.g-f. and used by employees in commuting for the purposes of plant protection.
 - e. Vehicles used in providing or transporting employees for emergency medical care, residential care, telecommunications services, energy production, and news reporting;
 - f. Individuals who require daily medical treatment; and
 - g. Out-of-state licensed vehicles.
5. Any vehicle registered and licensed by the State of Minnesota and operated during a driving ban shall prominently display a sticker or card which clearly identifies that vehicle as exempt. The Governor may waive this requirement for any category of exempted user, for example, police, fire, ambulance, or aviation ground support vehicles.
6. The ~~agency~~ department will issue guidelines for identification of exempt vehicles prior to a driving ban.

Department of Health

Adopted Rules Governing Licensure Fees for Hospitals, Nursing Homes, Boarding Care Homes, Supervised Living Facilities and Outpatient Surgical Centers

The Department of Health adopts the following fee increases in accordance with the provisions of Minnesota Statutes 1980, Sections 15.0412, subdivision 4, as amended by Laws of 1981, chapter 357, section 25; 16A.128, as amended by Laws of 1981, second special session, chapter 1, section 1; and Laws of 1981, third special session, chapter 2, article 1, section 2, subdivision 4, clause (f). All fee increases in the rules have been approved by the Commissioner of Finance.

Rules as Adopted

7 MCAR § 1.044 Definitions, general provisions, issuance of licenses.

(APPLIES TO BOTH NURSING HOMES AND BOARDING CARE HOMES)

For the purpose of these regulations: A state license is required for any facility where nursing, personal or custodial care is provided for five or more aged or infirm persons who are not acutely ill.

(a)-(u) Reletter as A.-U.

(v) V. License fees. Each application for either an initial or renewal license to operate a nursing home or boarding care home shall be accompanied by a fee based upon the following formula: ~~a base fee of \$50.00 plus \$2.00 for each bed to be licensed established in 7 MCAR § 1.701, Exhibit I.~~ A bed must be licensed if it is available for use by patients or residents. If the number of licensed beds is increased during the term of the license, ~~\$2.00~~ \$12 for each additional bed shall be paid. There shall be no refund for a decrease in licensed beds.

(w) Reletter as W.

X. [Unchanged.]

~~MHD 76~~ 7 MCAR § 1.076 Definitions, general provisions, issuance of licenses.

(a)(1)-(3)(aa)-(ee) and (4)-(6) Reletter as A.1.-3.(a)-(e) and 4.-6.

(b) B. General provisions.

(1)-(5) Renumber as 1.-5.

(c) 6. License fees. Each application for either an initial or renewal license to operate a hospital or a related institution within the meaning of Minn. Stat. ~~See §§ 144.50 to 144.56 and these regulations shall be accompanied by a fee based upon the following formula: a base fee of \$50.00 plus \$2.00 for each bed to be licensed established in 7 MCAR § 1.701, Exhibit I.~~ A bed must be licensed if it is available for use by patients. If the number of licensed beds in a nonaccredited hospital is increased

during the term of the license, ~~\$2.00~~ \$25 for each additional bed shall be paid. There shall be no refund for a decrease in licensed beds.

(7) Renumber as 7.

~~MHD 392~~ 7 MCAR § 1.392 General provisions.

(a)(1)-(6) Reletter as A.1.-6.

~~(b)~~ B. Licensure procedure.

(1)-(4) Renumber as 1.-4.

~~(5)~~ 5. Each application for either an initial or renewal license to operate a Supervised Living Facility within the meaning of Minn. Stat. §§ 144.50 to 144.56 and these regulations shall be accompanied by a fee based upon the following formula: ~~a base fee of \$50.00 plus \$2.00 for each bed to be licensed~~ established in 7 MCAR § 1.701, Exhibit I. A bed must be licensed if it is available for use by residents. If the number of licensed beds is increased during the term of the license, ~~\$2.00~~ \$12 for each additional bed shall be paid. There shall be no refund for a decrease in licensed beds.

(6) Renumber as 6.

~~MHD 413~~ 7 MCAR § 1.413 Licensure.

A.-L. [Unchanged.]

M. Fees shall be paid in accordance with 7 MCAR § 1.701, Exhibit I.

7 MCAR § 1.701 Licensure fees for hospitals, nursing homes, boarding care homes, supervised living facilities and outpatient surgical centers. In accordance with Department of Health rules 7 MCAR § 1.044 V., 7 MCAR § 1.076 B.6., 7 MCAR § 1.392 B.5. and 7 MCAR § 1.413 M., each application for an initial or a renewal license to operate a hospital, nursing home, boarding care home, supervised living facility, or an outpatient surgical center shall be accompanied by a fee based upon the formula in 7 MCAR § 1.701, Exhibit I.

Each separate licensure classification requires a separate base fee. For example, a hospital with boarding care home beds must submit a \$450 base fee for the hospital and a \$50 base fee for the boarding care home plus the appropriate per bed fee for each licensure classification.

The fee schedule applies to all licenses issued on or after January 1, 1982.

7 MCAR § 1.701, Exhibit I
Licensure Fees for Hospitals, Nursing Homes,
Boarding Care Homes, Supervised Living Facilities,
and Outpatient Surgical Centers

<u>Licensure Classification</u>	<u>Base Fee</u>	<u>Per Bed Fee</u>
<u>Joint Commission on Accreditation of Hospitals</u>		
<u>Accredited hospital</u>	\$450	\$ 0
<u>Nonaccredited hospital</u>	450	25
		(including bassinets)
<u>Nursing home</u>	50	12
<u>Boarding Care Home</u>	50	12
<u>Supervised living facility</u>	50	12
<u>Outpatient surgical center</u>	450	0

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ADOPTED RULES

Department of Health Minnesota Merit System

Adopted Rules Governing Definitions; Statement of Policy and Means of Effecting Policy; Organization; Classification Plan; Compensation Plan; Examinations; Certification of Eligibles; Probationary Period; Separation, Tenure and Reinstatement; Leaves of Absence; Appeals and Hearings; Salary Adjustments and Increases; Salary Computation Provisions for Full- and Part-time Employment; Appointments, Promotions, Demotions, Transfers and Reinstatements; and Provisions for Computing Monthly, Hourly, Less-than-full-time, Bi-weekly, and Four-week Salary Rates

The rules proposed and published at *State Register*, Volume 6, Number 18, pages 748-782, November 2, 1981 (6 S.R. 748) are adopted with the following modifications:

Rules as Adopted

7 MCAR § 1.235 Definitions.

W. Layoff list. "Layoff list" means a list of permanent or probationary employees who have been laid off by reason of abolishment of their positions, lack of funds, shortage of work, or other reason beyond the control of the ~~employee~~ employees.

LL. Reclassification. "Reclassification" means a reallocation or change in the allocation of a position to a higher, lower, or equivalent class.

7 MCAR § 1.236 Statement of policy and means of effecting policy.

B. Adoption of the rules. Rules 7 MCAR §§ ~~1.235-1.263~~ 1.315 have been adopted to accomplish the objectives stated in A. The rules have been promulgated by the commissioner in accordance with Minn. Stat. § 144.071, and in compliance with the provisions of Minn. Stat. ch. 15. Rules 7 MCAR §§ ~~1.235-1.263~~ 1.315 of the public health merit system have been adopted in accordance with Minn. Stat. ch. 15 and have the force and effect of law. Merit System Manual IV-5000-6530, available from the office of the Minnesota Merit System, of the public health merit system provides instructions to appointing authorities necessary to the implementation of the rules. These ~~rules~~ instructions from the manual are accorded similar status under these rules.

D. Editing of the rules. Before issuing or reissuing sections of the merit system rules, the supervisor may make the following, and only the following, changes. Such changes shall not be deemed to be amendments to the rules, and each shall be reported to the commissioner before release of the material. Any changes not approved by the commissioner shall be excluded from the material to be released. The supervisor may make:

3. Changes to correct exact quotations of statutes which are clearly identified as such by enclosure in quotation marks and by citation of statutory reference when enactment of statutory amendments ~~make~~ makes that action necessary to make the quotations true and accurate; and

E. Positions covered. Rules 7 MCAR §§ ~~1.235-1.263~~ 1.315 shall apply to every position created under the jurisdiction of the local public health authority ~~and~~ for which any federal personnel funds are paid to the local jurisdiction, except any local public health officer appointed pursuant to Minn. Stat. ch. 145, and except the position of the director of a comprehensive health department established pursuant to Laws of 1969, ch. 235.

G. Prohibition against discrimination; generally. No person shall be discriminated for or against in such matters as ~~his~~ recruitment, examination, appointment, tenure, compensation, classification, or promotion, or in such matters as conditions, facilities, or privileges of employment because of ~~his~~ race, color, creed, religion, national origin, physical disability where such disability does not interfere with the completion of assigned duties, age, marital status, status with regard to public assistance, or sex. Any person aggrieved by a violation of ~~the above~~ these prohibitions may file a complaint under the provisions of Minn. Stat. ch. 363.

I. Investigations of discrimination. The supervisor or ~~his~~ a designated representative shall conduct an investigation of the alleged discrimination and shall report the complaint and the findings of the investigation to the council at its next meeting. The complainant shall have the right to present his complaint personally to the council. The council shall order any further investigation or hearing as may be warranted before making its decision. If the council finds that discrimination has occurred, it shall take whatever action it deems warranted and within its authority to remedy the effect of any act or threat or promise of an act of discrimination and to prevent future discrimination.

J. Violations.

1. Violations of any of the provisions of 7 MCAR §§ ~~1.235-1.263~~ 1.315 by an employee in the service shall be considered sufficient cause for the dismissal of that person.

2. Violations of 7 MCAR §§ ~~1.235-1.263~~ 1.315 by an appointing authority shall be brought to the attention of the appointing authority by the supervisor. The notice shall include remedial measures necessary to correct past violations and to ensure future compliance. If the appointing authority refuses to take corrective action, the supervisor shall inform the commissioner who ~~shall take appropriate action including, but not limited to, denial or suspension~~ shall deny or suspend payment of all or part of state and federal administrative reimbursement funds, suspend services from the Merit System, or require that other corrective action be taken.

3. An appointing authority may appeal any denial or suspension of administrative reimbursement, or suspension of services, to the merit system council which, after a review of the record available to the commissioner, shall make its recommendation to the commissioner. The commissioner's decision shall be final.

7 MCAR § 1.237 Organization.

A. Duties and powers of commissioner. ~~“The commissioner may establish a merit system for employees of county or municipal health departments or public health nursing services or health districts, and may promulgate rules and regulations governing the administration and operation thereof. In the establishment and administration of the merit system authorized by this section, the commissioner may utilize facilities and personnel of any state department or agency with the consent of such department or agency. The commissioner may also, by rule or regulation, cooperate with the federal government in any manner necessary to qualify for federal aid.” Minn. Stat. § 144.071.~~ The commissioner shall exercise the duties and powers specified in Minn. Stat. § 144.071.

B. Affected employees. The authority to require methods relating to the establishment and maintenance of personnel standards on a merit basis shall extend to all employees of local public health authorities with civil service systems except as provided in 7 MCAR § 1.236 E. Rules 7 MCAR §§ ~~1.235-1.263~~ 1.315 shall be applicable to these employees until the local jurisdiction adopts and maintains rules ~~and regulations~~ affecting classification and compensation, examination and certification of eligibles, and other personnel standards that substantially conform to 7 MCAR §§ ~~1.235-1.263~~ 1.315 and are so certified as conforming by the supervisor.

C. Public Health Merit System Council.

2. It shall be the duty of the council within the scope of 7 MCAR §§ ~~1.235-1.263~~ 1.315:

e. To make recommendations to the commissioner about internal personnel policies to insure conformity with 7 MCAR §§ ~~1.235-1.263~~ 1.315;

D. Public health merit system supervisor.

2. In conformance with 7 MCAR §§ ~~1.235-1.263~~ 1.315, it shall be the duty of the supervisor to:

a. Develop and put into ~~continuous~~ effect policies and procedures for the administration of the merit system as they relate to the preparation, administration, and scoring of examinations; the preparation, custody, and maintenance of registers of eligibles; the determination of availability of eligibles for appointment; the certification for appointments; and the determination of the adequacy of existing registers;

b. Develop and administer the classification and compensation plans and to consult with the commissioner and ~~with~~ the council on the adoption and revision of such plans as they relate to the merit system program of recruitment and examination;

e. Appoint a staff, including technicians, clerks, stenographers, and such other permanent or temporary employees as are necessary to carry out the provisions of 7 MCAR §§ ~~1.235-1.263~~ 1.315. The employees shall be chosen in accordance with the rules of the Minnesota Department of Employee Relations;

g. Perform other duties prescribed by 7 MCAR §§ ~~1.235-1.263~~ 1.315 or by the council.

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

7 MCAR § 1.238 Classification plan.

A. Presentation and adoption. The Commissioner of Health shall formally adopt a comprehensive classification plan for all positions covered by 7 MCAR §§ 1.235-~~1.263~~ 1.315 which shall be published as part of the Health Merit System Manual. The plan shall be based on investigation and analysis of the duties and responsibilities of positions and shall be so developed and maintained that all positions that are substantially similar in the kind, difficulty, and responsibility of work are included in the same class. Class titles established by the classification plan shall be used in all personnel and financial records of the Minnesota Department of Health and the local public health agencies, as well as in all examination procedures.

Any subsequent amendment shall be submitted to the council for review and recommendation in relation to the merit system program of recruitment and examination.

D. Incumbents of reclassified positions.

1. When a position is reclassified and it is determined to be a reallocation, the supervisor ~~may~~ shall authorize an appointing authority to promote the incumbent of the reallocated position. An employee so promoted shall serve a probationary period in the higher class.

2. When a position in one class is reclassified because of a change in allocation, the incumbent shall not be deemed eligible to continue in the position unless he is eligible for original appointment, promotion, transfer, or demotion to the new class of positions. If he is ineligible to continue in such a position, he may be transferred, promoted, or demoted, by appropriate action of the appointing authority in accordance with such provisions of 7 MCAR §§ 1.235-~~1.263~~ 1.315 as may be deemed to be applicable. If ineligibility of a permanent or probationary incumbent of such a reclassified position arises from the existence of an eligible register established from an examination that the incumbent did not take, he may be permitted to take the same or equivalent examination from which the existing register was established, provided that his name is not on the existing register; he did not take and fail the examination from which the existing register was established; and he was eligible to take that examination at the time it was given. The names of successful candidates examined under this rule shall be placed on the existing register in accordance with the score attained. In any case in which the incumbent is ineligible to continue in the position and he is not transferred, promoted, or demoted, the provisions of these rules about layoff shall apply. A transfer, promotion, demotion, or layoff in accordance with 7 MCAR §§ 1.235-~~1.263~~ 1.315 must occur within 60 days of the notification of reclassification of the position.

7 MCAR § 1.239 Preparation of compensation plan.

A. Commissioner's adoption. The commissioner shall formally adopt and make effective a comprehensive compensation plan, as provided in 7 MCAR § 1.314, for all classes of positions which shall apply to all agencies covered by the merit system except as otherwise negotiated for employees in a bargaining unit in ~~agencies~~ an agency where there is an exclusive representative or in those instances where the requirements of 7 MCAR § 1.2395 B.3. have been satisfied. The plan shall include salary ranges for the various classes, with the salary of each class consistent with the duties and responsibilities outlined in the class specifications. Minimum, intervening, and maximum rates of pay for each class shall be established to provide for salary advancement without change of duty, in recognition of meritorious service. The advice and suggestions of appointing authorities, prevailing salary rates for similar and competing types of employment in business and government, and other relevant factors shall be taken into consideration in developing the salary ranges.

7 MCAR § 1.2395 Salary adjustments and increases.

B. Plan requirements. In agencies where there is no exclusive representative or collective bargaining agreement, negotiated adjustments in the rates of pay of incumbents of positions, in order to conform to a newly adopted or currently effective compensation plan, shall be in accordance with 1.-8.

8. An appointing authority may propose a salary increase within the salary range to an employee upon detailed written statements to the supervisor specifying the unusual employment conditions that make that action necessary and the interests of the authority that will be served by that action. The supervisor shall review each proposal giving due consideration to the salary rates paid other employees in the same class in the authority and ~~may~~ shall deny any request which ~~in his judgment is contrary to the best interests of the merit system~~ does not assure equitable compensation for comparable work. Salary increases proposed in accordance with this provision are not based on employee performance or a general merit system adopted salary adjustment. The granting of such an increase shall not affect the employee's eligibility for subsequent merit increases or salary adjustments in accordance with merit system rules. If the unusual employment conditions giving rise to such an increase are of a temporary nature, the employee's salary shall be decreased to its previous level upon termination of those conditions, notwithstanding the provisions of 7 MCAR § 1.2397 A. or 1.2541 D.-.

7 MCAR § 1.2397 Salary decreases.

A. In general. Except as otherwise negotiated by an appointing authority and the exclusive representative, a salary decrease within the range prescribed for the class may be made only for just cause. A permanent employee shall be notified of the intent

to effect a reduction in pay and the reasons for the action at least ten calendar days prior to the date on which the reduction becomes effective. A copy of the notice shall be sent to the supervisor. A permanent employee whose salary is reduced may request a hearing as provided in 7 MCAR § 1.2541 D.†

7 MCAR § 1.2398 Work-out-of-class. If an employee is expressly assigned in writing to perform all the duties of a position allocated to a higher classification that is temporarily unoccupied for reasons other than vacation or sick leave and that work exceeds 15 consecutive work days in duration, the employee so assigned shall be paid for all hours of the assignment at least at the minimum rate of pay of the salary range for the higher class or may be granted a one step salary increase within the employee's salary range. If the assignment is to a position in a classification at an equal or lower level, the employee shall be paid for all hours of the assignment at the employee's current rate of pay. A work-out-of-class assignment may be proposed only if the duration of the vacancy is anticipated to be less than six months. Approval of these assignments by the supervisor is required and requests for approval must be received by the supervisor within five calendar days of the assignment. Upon completion of the work-out-of-class assignment, the employee's salary shall be reduced to its previous level, notwithstanding the provisions of 7 MCAR § 1.2397 A. or 1.2541 D.†

7 MCAR § 1.242 Examinations; general characteristics.

A. Content of examinations. Examinations for entrance into the public health merit system shall be conducted on a competitive basis. Examinations shall be practical in nature, shall be constructed to reveal the capacity of the applicant for the particular position for which he is competing as well as his general background and related knowledge, and shall be rated objectively.

The supervisor shall determine the content of all examination processes. Examinations ~~may~~ shall include, ~~but are not limited to,~~ performance tests, written examinations, ratings of experience and training, promotional ratings; ~~and~~ or oral examinations.

7 MCAR § 1.2422 Conduct of examinations.

B. Refusal to score. The supervisor ~~may~~ shall refuse to score the examination of an applicant who copies another applicant's examination paper, or who falsifies his or her identity to gain admittance to the examination, or who otherwise meets the criteria for disqualification as provided in 7 MCAR § 1.241 B.1.

7 MCAR § 1.2433 Rating examinations.

A. Determination of score. The supervisor shall determine a final score for each applicant's examination, computed in accordance with the weights for the several parts established by the supervisor as set forth in the announcement. Failure in any part of an examination ~~may~~ shall disqualify the applicant in the entire examination. All applicants for the same position shall be accorded uniform and equal treatment in all phases of the examination procedure.

7 MCAR § 1.2442 Certification methods.

D. Selection for appointment. The appointing authority may select for appointment anyone among the certified candidates who ~~are~~ is eligible for appointment.

7 MCAR § 1.246 Probationary period.

~~E. Extension of probationary period. The probationary period shall consist of the equivalent of the first full six months of compensated service following the date of the appointment action requiring such period, except as provided in E. Unpaid leave of ten or fewer work days during the probationary period does not affect the duration of the period.~~

7 MCAR § 1.250 Leaves of absence.

B. Jury or witness duty.

1. After notice to the appointing authority, any employee under the merit system shall be granted leave with pay for service upon a jury or for appearance before a court, legislative committee, or other judicial or quasi-judicial body as a witness in an action involving the Federal Government, State of Minnesota, or a political subdivision thereof, in response to a subpoena or other direction by proper authority.

E. Sick leave.

2. Absence necessitated by employee's inability to perform the duties of his or her position by reason of illness or injury,

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by reason of pre-natal and post-natal care, by necessity for medical or dental care, by exposure to contagious disease under circumstances in which the health of the employees with whom associated or members of the public necessarily dealt with would be endangered by attendance on duty, or by illness in the employee's immediate family, for such period as shall be necessary. The term "immediate family" shall be limited to the employee's spouse, minor children, or parents living in the household of the employee, when the ~~parent has~~ parents have no other person to provide the necessary nursing care; ~~living in the household of the employee~~. Within the discretion of the appointing authority, use of sick leave also may be authorized in cases of death of the spouse, children, and wards of the employee and the brothers, sisters, parents, or grandparents of either the employee or the employee's spouse.

5. Sick leave shall not accumulate to an employee while in a non-pay status, except ~~employees~~ an employee on military leave.

I. Optional policy.

1. Beyond the minimum standards listed in B.-H., the appointing authority may adopt an optional leave of absence policy. The adoption of such a policy shall only be to increase the availability and use of ~~leave~~ leaves of ~~absences~~ absence to employees.

3. Additional holidays may be designated, with or without pay, to conform ~~with~~ to the county-wide policy.

7 MCAR § 1.2541 Appeals and hearings.

A. General provisions.

3. Except for appeals under ~~7 MCAR § 1-254~~ D., the supervisor shall reply to the appeal, interpreting the merit system rules and applicable law relative to the issues in the appeal. All affected parties will receive copies of the response.

7. Appeals under B., C., and F. shall be pursuant to the Administrative Procedure Act, Minn. Stat. ch. 15, and contested case rules of the Office of Administrative Hearings, 9 MCAR §§ 2.201-2.299.

D. Appeal from dismissal, suspension, or demotion.

1. Any permanent employee who has not appealed such action under the provisions of a grievance procedure contained in a collective bargaining agreement may appeal any dismissal, suspension of more than five consecutive working days or ten working days in a calendar year, or reduction in pay or position to the council. The council shall review the action for compliance with the procedural requirements of 7 MCAR § 1.249 ~~B-2-~~ and for whether the action was taken for just cause.

F. Other appeals. Any employee or appointing authority affected by action taken in the administration of 7 MCAR §§ ~~1.235-1.263~~ 1.315 may appeal the action. The council shall review the actions for compliance with the rules of the Minnesota merit system and applicable law and shall recommend to the commissioner remedial action which is warranted. The commissioner's action shall be final.

7 MCAR § 1.261 Salary computation provisions for full and part-time employment, vacation and sick leave pay upon termination, partial pay periods, overtime pay and part payment from another source.

B. Full-time and part-time employment.

1. All rates prescribed ~~in~~ by 7 MCAR §§ 1.314 and 1.315 shall be standard rates for full-time employees except as otherwise negotiated for employees in a bargaining unit in ~~agencies~~ an agency where there is an exclusive representative or under the provisions of 7 MCAR § 1.2395 B.3. If employment in a position is on a part-time or intermittent basis, only the proportional part of the rate for the time actually employed shall be paid. Such time may be paid on an hourly, working-day or proportion of a month basis. The agencies using 7 MCAR § 1.314 shall use the table prepared in accordance with 7 MCAR § 1.315 in computing such payment.

7 MCAR § 1.262 Appointment, promotions, demotions, transfers and reinstatements.

A. Appointment.

2. An employee who is provisionally employed at a rate of pay higher than the minimum of the range prescribed for the class shall not be reduced in pay at the time of appointment from a register to the class.

B. Promotions.

2. Employees granted a ~~salary increase~~ salary increases after having been promoted may be permitted to retain that increase when returned to a lower class, if their ~~salary does~~ salaries do not exceed the maximum salary for the lower class.

7 MCAR § 1.315 Provisions for computing monthly, hourly, less-than-full-time, bi-weekly, and four week salary rates.

A. Salary conversion tables.

1. The supervisor shall publish a salary conversion table as part of the Minnesota Merit System Manual. The table shall

list all existing salary rates listed in 7 MCAR § 1.314. For those salary rates, the supervisor shall calculate hourly, daily and payroll period salaries for each of the salary rates listed. This table shall be based on an 8-hour day, 40-hour week and 2088-hour year. Agencies with a normal work schedule which varies from an 8-hour day, 40-hour week or 2088-hour year or agencies with payroll periods other than once every two weeks, every four weeks, or every month, shall supply the supervisor with a salary conversion table as provided for in 7 MCAR § ~~1.2395 B-3.~~ or ~~1.261 B-2.~~

Department of Public Safety Minnesota Merit System

Adopted Rules Governing Definitions; Statement of Policy and Means of Effecting Policy; Organization; Classification Plan; Compensation Plan; Examinations; Certification of Eligibles; Probationary Period; Separation, Tenure and Reinstatement; Leaves of Absence; Appeals and Hearings; Salary Adjustments and Increases; Salary Computation Provisions for Full- and Part-Time Employment; Appointments, Promotions, Demotions, Transfers and Reinstatements; and Provisions for Computing Monthly, Hourly, Less-than-full-time, Bi-weekly, and Four-week Salary Rates

The rules proposed and published at *State Register*, Volume 6, Number 18, pages 782-800, November 2, 1981 (6 S.R. 782) are adopted with the following modifications:

Rules as Adopted

11 MCAR § 1.2090 Definitions.

A. Applicability. The following definitions apply to 11 MCAR §§ 1.2090-1.2141, unless the context clearly requires another meaning:

25. Local civil defense authority. "Local civil defense authority" means the governing board, commission, council, or mayor under whose authority a county, town, village, ~~or borough~~ establishes a local civil defense agency.

48. Veteran. "Veteran" means all persons defined as veterans by Minn. Stat. § ~~197.46~~ 197.447.

11 MCAR § 1.2091 Statement of policy and means of effecting policy.

G. Prohibition against discrimination.

1. In general. No person shall be discriminated for or against in such matters as ~~his~~ recruitment, examination, appointment, tenure, compensation, classification, or promotion, or in such matters as conditions, facilities, or privileges of employment because of ~~his~~ race, color, creed, religion, national origin, physical disability where the disability does not interfere with the completion of assigned duties, age, marital status, status with regard to public assistance, or sex. Any person aggrieved by a violation of these prohibitions may file a complaint under the provisions of Minn. Stat. ch. 363.

2. Political opinions. No person shall be discriminated for or against as provided in 1. because of his political opinions or affiliations within the limitations imposed by F., nor shall discrimination occur because of any other non-merit factor. Any person aggrieved by a violation of a prohibited discrimination that does not come within the jurisdiction of Minn. Stat. ch. 363 may file a complaint with the merit system supervisor setting forth the basis of ~~his~~ a belief that an act or threat or promise of an act of discrimination occurred and identifying by name and position the person alleged to have committed the act or threat or promise of an act of discrimination.

3. Investigations. The supervisor or ~~his~~ a designated representative shall conduct an investigation of the alleged discrimination and shall report the complaint and the findings of the investigation to the merit system council at its next meeting. The complainant shall have the right to present ~~his~~ a complaint personally to the council. The council shall order any further investigation or hearing as may be warranted prior to making its decision. If the council finds that discrimination has occurred, it

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shall take whatever action it deems warranted and within its authority to remedy the effect of any act or threat or promise of an act of discrimination and to prevent future discrimination.

H. Violations.

2. Violations of 11 MCAR §§ 1.2090-1.2141 by an appointing authority shall be brought to the attention of the appointing authority by the supervisor. The notice shall include remedial measures necessary to correct past violations and to ensure future compliance. In the event the appointing authority refuses to take corrective action, the supervisor shall inform the commissioner who ~~shall take action as appropriate including, but not limited to, denial or suspension of~~ shall deny or suspend all or part of state and federal administrative reimbursement funds, suspend services from the merit system, or require that other corrective action be taken.

3. An appointing authority may appeal any denial ~~or~~, suspension of administrative reimbursement, or suspension of services under 2, to the Merit System Council which shall, after a review of the record available to the commissioner, make its recommendation to the commissioner. The commissioner's decision shall be final.

11 MCAR § 1.2093 Classification plan.

D. Incumbents of reclassified positions.

1. Appointment authorized. When a position is reclassified and it is determined to be a reallocation resulting from a significant change in the duties and responsibilities of the position occurring gradually over a period of time, the supervisor ~~may~~ shall authorize an appointing authority to promote the incumbent of the reallocated position. Any employee promoted in accordance with this paragraph shall serve a probationary period in the higher class.

11 MCAR § 1.2094 Compensation plan.

F. Salary adjustments and increases.

2. Plan requirements. In agencies where there is no exclusive representative or collective bargaining agreement, negotiated adjustments in the rates of pay of incumbents of positions, in order to conform to a newly adopted or currently effective compensation plan, shall be in accordance with a.-h.

h. An appointing authority may propose a salary increase within the salary range after providing detailed written statements to the supervisor specifying the unusual employment conditions that make the action necessary and the interests of the agency that will be served by the action. The supervisor shall review each such proposal giving due consideration to the salary rates paid other employees in the same class in the agency and ~~may shall~~ deny any request which in his judgment is contrary to the best interests of the merit system does not assure equitable compensation for comparable work. Salary increases proposed in accordance with this paragraph are not based on employee performance or a general merit system adopted salary adjustment. The granting of the increase will not affect the employee's eligibility for subsequent merit increases or salary adjustments in accordance with merit system rules. If the unusual employment conditions justifying the increase are of a temporary nature the employee's salary shall be decreased to its previous level upon conclusion of those conditions, notwithstanding the provisions of H.+ or 12 MCAR § 2.508 D.+.

H. Salary decreases.

1. In general. Except as otherwise negotiated by an agency and the exclusive representative, a salary decrease within the range prescribed for the class may be made only for just cause. A permanent employee shall be notified of the intent to effect a reduction in pay and the reasons for the action at least ten calendar days prior to the date on which the reduction becomes effective. A copy of the notice shall be sent to the supervisor. A permanent employee whose salary is reduced may request a hearing as provided in 12 MCAR § 2.508 D.+.

I. Work out of class. If an employee is expressly assigned in writing to perform all the duties of a position allocated to a higher classification that is temporarily unoccupied for reasons other than vacation or sick leave and the work exceeds 15 consecutive work days the employee so assigned shall be paid for all hours of the assignment at least at the minimum rate of pay of the salary range for the higher class or may be granted a one step salary increase within his salary range. If the assignment is to a position in a classification at an equal or lower level the employee shall be paid for all hours of the assignment at the employee's current rate of pay. A work out of class assignment may be proposed only if the duration of the vacancy is anticipated to be less than six months. Approval of the assignments by the supervisor is required and must be received by the supervisor within five calendar days of the assignment. Upon completion of the work out of class assignment the employee's salary shall be reduced to its previous level, notwithstanding the provisions of H.+ or 12 MCAR § 2.508 D.+.

11 MCAR § 1.2117 Salary computation provisions for full and part-time employment, vacation and sick leave pay upon termination, partial pay periods, overtime pay and part payment from another source.

D. Part payment from another source. When part of the compensation of a local civil defense employee regularly is paid from

another source, such as a federal, state, city or county governmental ~~departments~~ department, or from a different fund or account outside the control of the local civil defense authority, the total salary from all governmental sources combined shall not exceed the amount payable at the maximum rate for the class of position involved on the compensation plan adopted by the agency.

11 MCAR § 1.2118 Appointments, promotions, demotions, transfers, and reinstatements.

B. Promotions.

1. ~~Employees~~ The salary of an employee who ~~are~~ is promoted shall ~~have their salary be~~ raised to the minimum rate of pay for the new class. If ~~their~~ the salary before promotion falls within the range of the new class but not on any step within that range, the salary shall be adjusted to the next higher step.

C. Demotions. An employee who is demoted, except one demoted in accordance with 11 MCAR § ~~1.2094 C-~~ 1.2093 D., and whose salary is above the maximum rate for the lower class shall be reduced in salary to at least the maximum rate for the new class. If the former salary is within the salary range for the lower class the same salary may be continued. An employee whose position is reclassified downward in accordance with 11 MCAR § ~~1.2094 C-~~ 1.2093 D. and remains in the same position may retain the former salary if it is above the maximum salary rate for the lower class but shall be ineligible to receive any further increases except those subsequently provided in the new classification.

11 MCAR § 1.2140 Compensation plan (emergency services)—1982

B. Clerical

1. Plan A

a. Class of positions

	1	2	3	4	5	6	7	8
Clerk-Steno II	821	857	895	937	982	1027	1073	1119
<u>III</u>								

11 MCAR § 1.2141 Provisions for computing monthly, hourly, less-than-full-time, bi-weekly, and four week salary rates. The supervisor shall publish a salary conversion table as part of the Minnesota Merit System Manual. The table shall list all existing salary rates listed in 11 MCAR § 1.2140. For those salary rates, the supervisor shall calculate hourly, daily and payroll period salaries for each of the salary rates listed. This table shall be based on an eight-hour day, 40-hour week and 2088-hour year. Agencies with a normal work schedule which varies from an eight-hour day, 40-hour week or 2088-hour year or agencies with payroll periods other than once every two weeks, every four weeks, or every month, shall supply the supervisor with a salary conversion table as ~~provided for in 11 MCAR § 1.2094 F.2.e. or in 11 MCAR § 1.2117 B.2.~~

Department of Public Welfare Merit System

Adopted Rule and Amendments of Existing Rules Governing Definitions; Statement of Policy and Means of Effecting Policy; Organization; Classification Plan; Compensation Plan; Examinations; Certification of Eligibles; Probationary Period; Separation, Tenure and Reinstatement; Leaves of Absence; Appeals and Hearings; Salary Adjustments and Increases; Salary Computation Provisions for Full and Part-time Employment; Appointments, Demotions, Transfers and Reinstatements; and Provisions for Computing Monthly, Hourly, Less-than-full-time, Bi-weekly, and Four-week Salary Rates

The rules proposed and published at *State Register*, Volume 6, Number 18, pages 800-851, November 2, 1981 (6 S.R. 800) are adopted with the following modifications:

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ADOPTED RULES

Rules as Adopted

12 MCAR § 2.490 Definitions.

A. The following definitions apply to 12 MCAR §§ 2.490-2.841 unless the context clearly requires another meaning.

47. Veteran. "Veteran" means every person defined as a veteran by Minn. Stat. § ~~197.46~~ 197.447.

12 MCAR § 2.491 Statement of policy and means of effecting policy.

E. Violations.

2. By an appointing authority. Violations of 12 MCAR §§ 2.490-2.841 by an appointing authority shall be brought to the attention of the appointing authority by the supervisor. The notice shall include remedial measures necessary to correct past violations and to ensure future compliance. If the appointing authority refuses to take corrective action, the supervisor shall inform the commissioner who ~~shall take appropriate action, including but not limited to denial or suspension of~~ shall deny or suspend payment of all or part of state and federal administrative reimbursement funds, suspend services from the Merit System, or require that other corrective action be taken.

3. Appeals. An appointing authority may appeal any denial or suspension of administrative reimbursement to the Merit System Council which shall, after a review of the record available to the commissioner, make its recommendation to the commissioner. The commissioner's decision shall be final.

G. Prohibition against discrimination.

1. In general. No person shall be discriminated for or against in recruitment, examination, appointment, tenure, compensation, classification, or promotion or in conditions, facilities, or privileges of employment because of race, color, creed, religion, national origin, physical disability when such disability does not interfere with the completion of assigned duties, age, marital status, status with regard to public assistance, or sex. Any person aggrieved by a violation of these prohibitions may file a complaint under the provisions of Minn. Stat. ch. 363.

3. Investigations. The supervisor or ~~his~~ a designated representative shall conduct an investigation of the alleged discrimination and shall report the complaint and the findings of the investigation to the Merit System Council at its next meeting. The complainant shall have the right to present ~~his~~ the complaint personally to the council. The council shall order any further investigation or hearing as may be warranted prior to making its decision. If the council finds that discrimination has occurred, it shall take whatever action it deems warranted and within its authority to remedy the effect of any act or threat or promise of an act of discrimination and to prevent discrimination.

12 MCAR § 2.492 Organization.

B. Organization of the Merit System Council.

1. The Merit System Council members shall be appointed by the Governor from a panel of names submitted by the Commissioner of Public Welfare. The council shall be composed of three members who shall be public-spirited persons of recognized standing and of known interest in the improvement of public administration and in the impartial selection of efficient government personnel. No member shall have held political office or have been an officer in a political organization during the year preceding appointment, ~~nor shall he hold such office or~~ during his the term of the appointment. No member of the council shall have been an employee of the state agency or an employee or member of an appointing authority within one year prior to ~~his~~ appointment.

E. Compensation of council members. Each member of the council shall be paid \$50 per regular meeting, but no member shall be paid more than \$600 in any one calendar year for regular meetings. Each member of the council shall be paid \$50 per day when serving on an appeal or hearing board. In addition, members whose residence is in excess of 50 miles from the place of meeting shall be compensated for travel expenses and, in an instance in which the meeting is scheduled for more than one day or when the ~~four~~ hour of the beginning of the meeting, or the close of the meeting, does not allow coming from or returning to the place of residence within a reasonable time, for lodging and meals.

12 MCAR § 2.493 Classification plan.

D. Incumbents of reclassified positions.

1. Appointment authorized. When a position is reclassified and it is determined to be a reallocation resulting from a significant change in the duties and responsibilities of the position occurring gradually over a period of time, the supervisor ~~may~~ shall authorize an appointing authority to promote the incumbent of the reallocated position. An employee promoted in accordance with this provision shall serve a probationary period in the higher class.

2. Eligibility. When a position is reclassified resulting from a change in allocation the incumbent shall not be eligible to continue in the position except as provided in 3. or unless he is eligible for original appointment, promotion, transfer, or

demotion to the new class of positions. If he is ineligible to continue in such a position, he may be transferred, promoted, or demoted by appropriate action of the appointing authority in accordance with the applicable provisions of 12 MCAR §§ 2.490-2.841. If ineligibility of a permanent or probationary incumbent of such a reclassified position arises from the existence of an eligible register established from an examination that the incumbent did not take, he may be permitted to take the same or equivalent examination from which the existing register was established, providing that his name is not on the existing register, he did not take and fail the examination from which the existing register was established, and he was eligible to take the examination at the time it was given. The names of successful candidates examined under this rule shall be placed on the existing register in accordance with the score attained. In any case in which the incumbent is ineligible to continue in the position and he is not transferred, promoted, or demoted, the provisions of these rules about layoff shall apply. Any transfer, promotion, demotion or layoff in accordance with those provisions must occur within 60 days of the notification of reclassification of the position.

12 MCAR § 2.494 Compensation plan.

A. Preparation and adoption.

2. Review by council. The proposed compensation plan, and any amendments to it, shall be submitted to the Merit System Council for review and recommendation. Upon review and recommendation by the council and after compliance with the provisions of Minn. Stat. ch. 15, the commissioner shall formally adopt the compensation plan which shall be the official salary schedule of the Minnesota Merit System, effective the date specified.

F. Salary adjustments and increases.

2. Plan requirements. In agencies where there is no exclusive representative or collective bargaining agreement, negotiated adjustments in the rates of pay of incumbents of positions, in order to conform to a newly adopted or currently effective compensation plan, shall be in accordance with the following provisions.

h. An appointing authority may propose a salary increase within the salary range to an employee upon detailed written statements to the supervisor specifying the unusual employment conditions that make the action necessary and the interests of the agency that will be served by the action. The supervisor shall review each proposal, giving due consideration to the salary rates paid other employees in the same class in the agency and ~~may shall deny any request which in his judgment is contrary to the best interests of the Merit System~~ does not assure equitable compensation for comparable work. Salary increases proposed in accordance with this section are not based on employee performance or a general Merit System adopted salary adjustment. The granting of such an increase shall not affect the employees' eligibility for subsequent merit increases or salary adjustments in accordance with Merit System rules. If the unusual employment conditions giving rise to such an increase are of a temporary nature, the employee's salary shall be decreased to its previous level upon conclusion of those conditions; ~~notwithstanding the provisions of~~ This decrease is not subject to H.4- or 12 MCAR § 2.5081 D.4-

I. Work out of class. If an employee is expressly assigned in writing to perform all the duties of a position allocated to a higher classification that is temporarily unoccupied for reasons other than vacation or sick leave and that work exceeds 15 consecutive work days in duration, the employee so assigned shall be paid for all hours of the assignment at least at the minimum rate of pay of the salary range for the higher class or may be granted a one step salary increase within the assigned employee's salary range. If the assignment is to a position in a classification at an equal or lower level, the employee shall be paid for all hours of the assignment at the employee's current rate of pay. A work out of class assignment may be proposed only if the duration of the vacancy is anticipated to be less than six months. Approval of such assignments by the supervisor is required and must be received by the supervisor within five calendar days of the assignment. Upon completion of the work out of class assignment, the employee's salary shall be reduced to its previous level; ~~notwithstanding the provisions of~~ This decrease is not subject to H.4- or 12 MCAR § 2.5081 D.4-

12 MCAR § 2.496 Examinations.

A. Character of examinations.

1. In general. Examinations for entrance into the Public Welfare and Public Safety Merit Systems shall be conducted on a competitive basis. Examinations shall be practical in nature, shall be constructed to reveal the capacity of the applicant for the particular position for which he is competing, as well as his general background and related knowledge, and shall be rated objectively.

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ADOPTED RULES

The supervisor shall determine the content of all examination processes which ~~may shall include, but are not limited to;~~ performance tests, written examinations, ratings of experience and training, promotional ratings ~~and,~~ or oral examinations.

C. Conduct of examinations.

2. Refusal to score. The supervisor ~~may shall~~ refuse to score the examination of an applicant who copies another applicant's examination paper, or falsifies an identity to gain admittance to the examination, or who otherwise meets the criteria for disqualification as provided for in 12 MCAR § 2.495 C.1.

D. Rating examinations.

1. Determination of score. The supervisor shall determine a final score for each applicant's examination, computed in accordance with the weights for the several parts established by the supervisor as set forth in the announcement. Failure in any part of an examination ~~may shall~~ disqualify the applicant in the entire examination. All applicants for the same position shall be accorded uniform and equal treatment in all phases of the examination procedure.

12 MCAR § 2.498 Certification of eligibles.

C. Certification methods.

4. Selection for appointment. The appointing authority may select for appointment anyone among the certified candidates who ~~are~~ is eligible for appointment.

12 MCAR § 2.500 Probationary period.

B. When required.

1. A person employed by an appointing authority in any of the following ways shall serve a probationary period:

a. Appointment from an eligible register other than the layoff list, and except appointment under 12 MCAR § 2.493 D.;

b. Reinstatement of a former probationary employee or of a former permanent employee in an agency other than the last employing agency;

c. Transfer of an employee between counties except when specifically waived, in a written document addressed writing to the Merit System Supervisor, by the new employing county prior to the date on which the transfer of a permanent employee becomes effective; or

d. Transfer or reinstatement to a position on the basis of eligibility from a comparable position in a similar merit system jurisdiction.

1. Completion of probationary period.

1. The appointing authority shall submit written notice of the satisfactory completion of the probationary period to the employee and to the Merit System at least ten days in advance of the expiration of the probationary period. A rating or appraisal of the employee's performance shall accompany the notice. The employee shall then be granted permanent status in ~~his~~ the position the day following the last day of ~~his probation~~ the probationary period.

12 MCAR § 2.503 Separation, tenure and reinstatement.

B. Dismissals.

2. No employee who has permanent status shall be dismissed from ~~his~~ a position except for just cause. Before the action is taken, a permanent employee shall be furnished with a statement, in writing, setting forth reasons for the dismissal. ~~He~~ The employee shall be permitted five days time to reply thereto, in writing, or, upon request, to appear personally and reply to the appointing authority. A copy of the statement and the employee's reply, if any, shall be filed with the supervisor prior to the effective date of the dismissal. Any such employee who is dismissed may demand a hearing before the Merit System Council in the manner prescribed by 12 MCAR § 2.5081 D.

C. Suspension. After written notice, the appointing authority may suspend any employee without pay for just cause for a period not to exceed 30 calendar days in any one calendar year. Suspensions of five or fewer consecutive working days or ten or fewer working days in a calendar year are not appealable to the council under 12 MCAR § 2.5081 D.~~+~~

12 MCAR § 2.504 Leaves of absence.

B. Minimum policy.

1. Jury or witness duty.

a. After notice to the appointing authority, any employee under the Merit System shall be granted leave with pay for

service upon a jury or appearance before a court, legislative committee, or other judicial or quasi-judicial body as a witness in an action involving the Federal Government, State of Minnesota, or a political subdivision thereof, in response to a subpoena or other direction by proper authority.

3. Vacation leave.

a. Upon the completion of six full months of satisfactory service in the Merit System, vacation leave shall accrue to a permanent, probationary, or trainee employee for time served at the rate of one working day for each full month of service. No vacation leave shall be accrued or granted during the first six months of service in the Merit System, but upon the satisfactory completion of such period, vacation leave shall accrue to a permanent, probationary, or trainee employee for the time served. Limited term and provisional employees with less than six full months of service and emergency employees shall not accrue vacation leave. Provisional employees with more than six months of service shall accrue vacation leave. Unused vacation leave shall accumulate to a total of at least 24 working days. The county agency shall determine the time at which vacation leave may be taken. Vacation leave may not be used prior to completion of the period in which it is accrued. Part time employees shall accrue vacation leave on a pro-rated basis based on hours worked in accordance with a schedule prepared by the appointing authority.

4. Sick leave.

a. Every permanent, probationary, provisional, limited-term and trainee employee shall accrue sick leave at the rate of one working day for each completed month of service, and such accrued sick leave may be used under the conditions hereinafter prescribed:

Absence necessitated by an employee's inability to perform the duties of his or her position by reason of illness or injury, by necessity for medical or dental care, by reason of prenatal and postnatal care, by exposure to contagious disease under circumstances in which the health of the employees with whom associated or members of the public necessarily dealt with would be endangered by attendance on duty, or by illness in the employee's immediate family, for such period as shall be necessary. The term "immediate family" shall be limited to the employee's spouse, minor children, or parent living in the household of the employee when the parent has no other person to provide the necessary nursing care, living in the household of the employee. Within the discretion of the appointing authority, use of sick leave also may be authorized in cases of death of the spouse, children, and wards of the employee and the brothers, sisters, parents, or grandparents of either the employee or the employee's spouse.

12 MCAR § 2.5081 Appeals and hearings.

A. General provisions.

7. Appeals under B., C., and F. shall be pursuant to the Administrative Procedure Act, Minn. Stat. ch. 15, and contested case rules 9 MCAR §§ 2.201-2.299 of the Office of Administrative Hearings.

D. Appeal from dismissal, suspension, or demotion.

1. Any permanent employee who has not appealed under the provisions of a grievance procedure contained in a collective bargaining agreement may appeal any dismissal, suspension of more than five consecutive working days or ten working days in a calendar year, or reduction in pay or position to the council. The council shall review the action for compliance with the procedural requirements of 12 MCAR § 2.503 ~~b.2.~~ and whether or not the action was taken for just cause.

~~12 MCAR § 2.578 Financial Assistance Supervisor I.~~

~~D. Minimum qualifications of education and experience. A Financial Assistance Supervisor I shall have:~~

~~1. Three years of experience as either a Financial Worker I or II, or the equivalent, or~~

~~2. Two years of experience as either a Financial Worker I or II, or the equivalent, and completion of two years of study at an accredited two or four-year college, with emphasis in the behavioral sciences, business, or closely related subjects with at least 23 quarter credits or 16 semester credits; or~~

~~3. Eighteen months of experience as either a Financial Worker I or II, or the equivalent, and completion of a bachelor's degree from an accredited four-year college or similar institution with a major in the behavioral sciences, business or closely related subjects.~~

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~~12-MCAR § 2.579 Financial Assistance Supervisor II.~~

D. Minimum qualifications of education and experience. A Financial Assistance Supervisor II shall have:

1. Four years of experience as a Financial Worker I or II; or
2. Three years of experience either as a Financial Worker I or II, or the equivalent, and completion of two years of study at an accredited two-year or four-year college, with emphasis in the behavioral sciences, business, or closely related subjects, with at least 23 quarter credits or 16 semester credits; or
3. Two years of experience as a Financial Worker I or II, and a bachelor's degree in social work, psychology, sociology, business, or closely related subjects.

~~12-MCAR § 2.590 Financial Assistance Supervisor III.~~

D. Minimum qualifications of education and experience. A Financial Assistance Supervisor III shall have:

1. Graduated from an accredited four-year college, with a major in social work, psychology, sociology, business administration, public administration, or related fields, and five years of experience as a Financial Worker, or equivalent, three years of which must have been at the Financial Worker II, or Senior level, or
2. Graduated from an accredited four-year college, with a major in social work, psychology, sociology, business administration, public administration or related fields, and four years of experience as either a social worker in a public social service agency or as a Financial Assistance Supervisor. When taking a promotional examination for this position, completion of any four-year degree from an accredited college will substitute for the bachelor's degree requirement. On a promotional basis, one year of experience as a social worker or Financial Assistance Supervisor may be substituted for two years of college.

~~12-MCAR § 2.591 Financial Assistance Supervisor IV.~~

D. Minimum qualifications of education and experience.

1. A Financial Assistance Supervisor IV shall have graduated from an accredited four-year college with a major in social work, psychology, sociology, business administration, public administration or related fields, and three years of experience as a Financial Assistance Supervisor III, or equivalent level of experience.
2. When taking a promotional examination for this position, completion of any four-year degree from an accredited college will substitute for the bachelor's degree requirement.
3. Master's degree level work in social work, psychology, sociology, human services administration, business administration, public administration or related fields may be substituted for the experience on a year for year basis, not to exceed two years.

~~12-MCAR § 2.623 Financial Assistance Specialist.~~

D. Minimum qualifications of education and experience. A Financial Assistance Specialist shall have:

1. Two years of successful experience as either a Financial Worker I or II, or the equivalent;
2. Eighteen months of successful experience as either a Financial Worker I or II, or the equivalent, and completion of two years of study at an accredited two-year or four-year college, or similar institution, with emphasis in the behavioral sciences, business, or closely related subjects with at least 23 quarter credits or 16 semester credits; or
3. One year of successful experience as either a Financial Worker I or II, or the equivalent, and completion of a bachelor's degree from an accredited four-year college or similar institution with a major in the behavioral sciences, business, or closely related subjects.

~~12-MCAR § 2.720 Fiscal Officer.~~

A. Kind of work. Under general supervision, a Fiscal Officer is responsible for the maintenance of financial records and accounts, preparation of budget estimates and periodic financial and statistical reports in a small county welfare or human services agency or supervision of the work of a small number of accounting and clerical employees in the maintenance of financial records and reports in a large county welfare or human services agency, and performance of related work as assigned.

The classification of a position will be determined by a biennial classification study and will depend, in part, on the size of the agency and the level of discretion of the incumbent.

B. Examples of work (illustrative only). Maintains ledgers. Processes or approves processing of bills, requisitions, and receipts. Prepares financial reports. Prepares or assists in the preparation of the agency budget. Develops new procedures when changes in state or county policies or programs occur affecting fiscal matters. Prepares Merit System forms and

maintains personnel records. May order supplies and maintains an inventory of supplies. Prepares payrolls. May assign and supervise work of account clerks or clerical employees assigned to the accounting unit. Trains new accounting employees. Analyzes and interprets fiscal reports so that the information is available in useful form. Develops and maintains control procedures for handling of cash.

C. Knowledge and abilities required.

1. Knowledge of accounting practices and procedures. Knowledge of business arithmetic. Knowledge of the principles of budgeting and accounting. Knowledge of the principles of supervision. Knowledge of the principles of office management. Knowledge of office procedures and practices and of uses of standard office equipment.

2. Ability to accept responsibility. Ability to plan, organize, and assign work. Ability to analyze work flow problems and to design procedures. Ability to perform detailed work rapidly and accurately. Ability to analyze financial records and reports, locate errors, and recommend solutions to procedural or other problems. Ability to interpret bookkeeping records and documents, and prepare information in summary form. Ability to maintain satisfactory working relationships with professional and clerical staff and with the public. Ability to maintain confidentiality.

D. Minimum qualifications of education and experience. A Fiscal Officer shall have:

1. A high school degree, or the equivalent, and shall have completed two years of training in bookkeeping or accounting courses in a business school, college or university and one year of experience as an account clerk or bookkeeper;

2. One year of experience as an account clerk or bookkeeper may be substituted for each year of college coursework;

or

3. Any combination of the above experience and education.

12 MCAR § 2.721 Fiscal Supervisor I.

A. Kind of work. Under general supervision, a Fiscal Supervisor I is responsible for the maintenance of financial records and accounts; preparation of budget estimates and periodic financial and statistical reports in a medium sized county welfare or human services agency or supervision of accounting and clerical employees in the maintenance of financial records and reports in a large urban county welfare or human services agency; and performance of related work as assigned.

The classification of a position will be determined by a biennial classification study and will depend, in part, on the size of the agency and level of discretion of the incumbent.

B. Examples of work (illustrative only). Maintains ledgers. Processes or approves processing of bills, requisitions, and receipts. Prepares financial reports. Prepares or assists in the preparation of the agency budget. Develops new procedures when changes in state or county policies or programs occur affecting fiscal matters. Prepares Merit System forms and maintains personnel records. May order office supplies and maintains an inventory of supplies. Prepares payrolls. Analyzes and interprets fiscal reports so that the information is available in useful form. Assigns and supervises work of accounting clerks or clerical employees assigned to the accounting staff. Trains new accounting employees. Evaluates staff performance. Develops and maintains control procedures for handling of cash.

C. Knowledge and abilities required.

1. Knowledge of accounting practices and procedures. Knowledge of business arithmetic. Knowledge of the principles of budgeting and accounting. Knowledge of the principles of office management. Knowledge of the principles of supervision. Knowledge of office procedures and practices and uses of standard office equipment.

2. Ability to accept responsibility. Ability to analyze work flow problems and to design and implement procedures to increase effectiveness and efficiency of employees. Ability to prepare and interpret complex fiscal reports and records, recognize problems and effect solutions. Ability to plan, organize, and assign work. Ability to perform detailed work rapidly and accurately. Ability to write and speak effectively. Ability to maintain satisfactory working relationships with professional and clerical staff and with the public. Ability to maintain confidentiality.

D. Minimum qualifications of education and experience. A Fiscal Supervisor I shall have:

1. A high school degree, or the equivalent, and completion of two years of training in bookkeeping or accounting courses in a business school, college, or university, and two years of experience as an account clerk or bookkeeper; or

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- 2- One year of account clerk or bookkeeper experience may be substituted for each year of college coursework; or
- 3- Any combination of the above experience and education.

~~12-MCAR § 2.722 Fiscal Supervisor II-~~

A. Kind of work. Under general supervision, a Fiscal Supervisor II directs the maintenance of all financial records and accounts in a medium or large county welfare or human services agency; supervises the preparation of periodic financial and statistical reports; prepares agency budget estimates and expenditures reports; and performs related work as assigned.

The classification of a position will be determined by a biennial classification study and will depend, in part, on the size of the agency and level of discretion of the incumbent.

B. Examples of work (illustrative only). Maintains ledgers. Compiles difficult and complex financial and statistical reports. Processes or approves processing of bills, requisitions, and receipts. Projects program costs for the agency and prepares or assists in the preparation of the agency budget. Prepares payrolls. May order office supplies and maintain an inventory of supplies. Develops new procedures when changes in state or county policies or programs occur affecting fiscal matters. Prepares Merit System forms and maintains personnel records. Assigns and supervises work of account clerks or clerical employees assigned to the accounting staff. Trains new accounting employees. Analyzes and interprets complex fiscal reports so that the information is available in useful form. Evaluates staff performance. Develops and maintains control procedures for handling of cash.

C. Knowledge and abilities required.

1- Knowledge of accounting practices and procedures. Knowledge of business arithmetic. Knowledge of principles of budgeting and accounting. Knowledge of principles of office management. Knowledge of the principles of supervision. Knowledge of office procedures and practices and of use of standard office equipment.

2- Ability to accept responsibility. Ability to effectively plan, organize, and assign work. Ability to analyze work flow problems and to design and implement procedures to increase effectiveness and efficiency of employees. Ability to perform detailed work rapidly and accurately. Ability to prepare and interpret complex fiscal reports and records, recognize problems, and effect solutions. Ability to write and speak effectively. Ability to maintain satisfactory working relationships with professional and clerical staff and the public. Ability to maintain confidentiality.

D. Minimum qualifications of education and experience.

1- A Fiscal Supervisor II must have a high school degree, or the equivalent, and two years of training in bookkeeping or accounting courses in a business school, college, or university, and three years of experiencing in accounting or auditing.

2- One year of experience in accounting or auditing may be substituted for each year of college coursework, up to a maximum of two years.

~~12-MCAR § 2.723 Fiscal Supervisor III-~~

A. Kind of work. Under general supervision, a Fiscal Supervisor III directs the maintenance of financial records and accounts in a large county welfare or human services agency; prepares agency budget estimates and expenditure reports; and performs related work as assigned.

The classification of a position will be determined by a biennial classification study and will depend, in part, on the size of the agency and the level of discretion of the incumbent.

B. Examples of work (illustrative only). Assigns and supervises the work of account clerks or clerical employees assigned to the accounting unit. Supervises the disbursing of aid and payroll warrants and expense vouchers. Maintains ledgers. Compiles difficult and complex financial and statistical reports. Projects program costs for the agency. Trains new employees. Evaluates staff performance. Prepares or assists in the preparation of the agency budget. Develops new procedures when changes in state or county policies or programs occur which affect fiscal matters. Coordinates agency's purchasing so that all purchases are made within county and agency requirements. Plans and directs the computerization of systems applied to fiscal services to ensure efficient operation.

C. Knowledges and abilities required.

1- Knowledge of the principles of budgeting. Knowledge of the principles and practices of accounting. Knowledge of the principles of office management. Knowledge of the principles of supervision. Knowledge of office procedures, practices, and uses of standard office equipment.

2- Ability to accept responsibility. Ability to effectively plan, organize, and assign work. Ability to analyze work-flow problems and to design and implement procedures to increase effectiveness and efficiency of employees. Ability to write and speak effectively. Ability to prepare and interpret complex fiscal records and reports, recognize problems, and effect solutions. Ability to supervise. Ability to maintain satisfactory working relationships with staff members and with the public.

D. Minimum qualifications of education and experience. A Fiscal Supervisor III shall have:

1. Graduated from an accredited four-year college, with a major in accounting or a closely related business field; or
2. Graduated from a standard high school and have five years of successful full-time paid employment involving work in accounting and auditing.

~~12 MCAR § 2.724 Fiscal Supervisor IV.~~

A. Kind of work. Under general supervision, a Fiscal Supervisor IV performs professional accounting work and supervises a large staff of accounting, clerical, and data processing personnel in maintaining the financial records and reports of a large county welfare or human services department; supervises the maintenance of internal record-keeping procedures in relation to the purpose and functions of the agency; and performs related work as assigned.

The classification of a position will be determined by a biennial classification study and will depend, in part, on the size of the agency and the level of discretion of the incumbent.

B. Examples of work (illustrative only). Participates in the development of agency procedures relating to transmittal of information about financial actions in welfare cases. Plans and installs internal procedures in the accounting department. Supervises the operations of the several functional units within the accounting department, including the data processing section. Performs the more difficult and complex accounting entries, transactions, and reconciliations. Prepares operating statements, major periodic reports, and special reports as requested. Prepares or assists in preparing agency budget. Selects personnel for the accounting departments and evaluates the performance of staff members. Coordinates agency's purchasing so that all purchases are made within county and agency requirements. Develops new procedures when changes in state or county policies or programs occur which affect fiscal matters.

C. Knowledge and abilities required.

1. Knowledge of the principles and practices of governmental accounting. Knowledge of office procedures, practices, and equipment. Knowledge of the uses and applications of data processing equipment. Knowledge of accounting theory and approved practices of fiscal management. Knowledge of the scope and purposes of agency operations.

2. Ability to plan, assign, and coordinate the work of a large number of employees. Ability to maintain good working relationships with staff members and other departments of the agency. Ability to direct and supervise the work of others. Ability to write and speak effectively. Ability to prepare and interpret complex fiscal records and reports, recognize problems and effect solutions. Ability to implement procedures to increase effectiveness and efficiency of employees.

D. Minimum qualifications of education and experience. A Fiscal Supervisor IV shall have graduated from an accredited four-year college with a major in accounting or business administration, and shall have three years of full-time paid experience as an accountant or auditor.

~~12 MCAR § 2.729 Accounting Technician.~~

A. Kind of work. Under general supervision, an Accounting Technician does accounting work in a county welfare or human services agency, acts as a lead worker to other accounting staff and may supervise account clerks or clerk typists, and performs related work as assigned. The major difference between this classification and the Account Clerk classification is the greater emphasis on recognizing errors or problems and recommending alternative solutions, and less emphasis on transactional matters.

B. Examples of work. (Illustrative only) Journalize and summarize receipts and disbursements for general ledger. Monitor expenditures according to state, federal, and county regulations and guidelines. Correct or reconcile audit discrepancies. May perform more responsible payroll functions including payment for less than full-time employees. Assist supervisor of accounting unit with preparation of the budget. Complete reports to the state, including reports required for federal and state administrative reimbursement. Provide lead work direction to other bookkeeping and clerical employees which includes assigning and reviewing work and having input into performance evaluations of workers. Investigate errors or problems in the processing of fiscal transactions and recommend changes in procedures.

C. Knowledge and abilities required. Knowledge of accounting principles and practices. Knowledge of office terminology, procedures, and equipment. Knowledge of business arithmetic and simple mathematics. Ability to perform mathematical computations. Ability to follow written and oral detailed instructions. Ability to interpret bookkeeping records and documents

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and prepare information in summary form. Ability to understand fiscal procedural and transactional practices. Ability to analyze financial records and reports, locate errors and recommend solutions to procedural or other problems. Ability to maintain effective working relationships with supervisors, co-workers, and the public. Ability to operate a variety of office equipment. Ability to organize work efficiently. Ability to perform detailed work with speed and accuracy. Ability to work under pressure and willingness to accept responsibility for meeting deadlines.

D. Minimum qualifications of education and experience.

1- An Accounting Technician must have a high school diploma or the equivalent, and two years of experience as an account clerk or bookkeeper.

2- Completion of college coursework, vocational school, or business school in accounting may be substituted on a year-for-year basis for the account clerk or bookkeeping experience.

12 MCAR § 2.840 Compensation plan; Public Welfare—~~1981~~ 1982

i A. Professional.

1. Plan A. The following salary steps in monthly salary amounts shall be applicable to the specified classes of positions. The salary steps shall not include any amounts paid by any county welfare board under Minn. Stat. § 471.61.

	1	2	3	4	5	6	7	8	9	10
Personnel	1656	1734	1814	1894	1982	2068	2134	2264	2366	2475
Director							<u>2163</u>			

C. Clerical

3. Plan C. The following salary steps in monthly salary amounts shall be applicable to the specified classes of positions. The salary steps shall not include any amount paid by any county board under Minn. Stat. § 471.61.

	1	2	3	4	5	6	7	8	9
Clerk III	984	1027	1073	1119	1172	1223	1281		
	<u>982</u>								
Clerk-Typist H	<u>982</u>	1027	1073	1119	1172	1223	1281		

12 MCAR § 2.841 Provisions for computing monthly, hourly, less-than-full-time, bi-weekly, and four week salary rates.

~~A-~~ Salary conversion tables. The supervisor shall publish a salary conversion table as part of the Minnesota Merit System Manual. The table shall list all existing salary rates listed in 12 MCAR § 2.840. For those salary rates, the supervisor shall calculate hourly, daily and payroll period salaries for each of the salary rates listed. This table shall be based on an 8-hour day, 40-hour week and 2088-hour year. Agencies with a normal work schedule which varies from an 8-hour day, 40-hour week or 2088-hour year or agencies with payroll periods other than once every two weeks, every four weeks, or every month, shall supply the supervisor with a salary conversion table as provided in ~~12 MCAR § 2.494 F.2.e. or in 12 MCAR § 2.517 B.2.~~

Department of Natural Resources

Commissioner's Order No. 2116

Regulations for the Taking of Fish from Lake Superior, Superseding Commissioner's Order No. 2051

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 fish from the portion of Lake Superior under the jurisdiction of the State of Minnesota.

Section 1. No fish shall be taken in Lake Superior except as provided in this order or under permit.

Sec. 2. Angling season and daily and possession limits:

<u>Species</u>	<u>Open Season</u>	<u>Daily and Possession Limits</u>
Trout, including Splake (except Lake Trout)	Continuous	5 (Minimum size, 10 inches in length. Not more than 3 may be 16 inches or more)
Lake Trout	Dec. 1-Sept. 30	3
Salmon	Continuous	10

All other species may be taken by angling, spearing, and archery only in accordance with and subject to the provisions of the laws and regulations relating to the taking of such fish in the inland waters of the state.

Sec. 3. All persons licensed to take fish from Lake Superior by angling are permitted to do so by the use of not more than two lines with one bait attached to each line, except that only one line shall be used within 100 yards of the mouth of any flowing stream.

Sec. 4. Fish of the following species may be taken by licensed commercial fishermen in accordance with the following provisions:

- a. Ciscoes, chubs, alewives, whitefish, menominee whitefish, smelt and rough fish may be taken at any time.
- b. Herring may be taken between December 1 and October 30, both dates inclusive.
- c. Whitefish may be taken in pound or trap nets at any time but no whitefish less than twenty (20) inches total length may be possessed, bought or sold. Whitefish less than 20 inches total length shall be returned to the water immediately.
- d. Lake trout may not be taken by commercial fishing except by permit and no lake trout less than seventeen inches total length may be possessed, bought or sold. Lake trout legally taken under permit shall be sealed with a tag furnished by the Department of Natural Resources, affixed through the mouth and out the gill. Such tag shall be affixed immediately upon removal from the water and before the boat is brought to shore, and no untagged lake trout may be possessed, bought or sold by licensed commercial fishermen.
- e. Incidental catch of legal sized lake trout taken by commercial fishing and dead when removed from the water may be possessed only if sealed with a tag furnished by the Department of Natural Resources, affixed through the mouth and out the gill. Such tag shall be affixed immediately upon removal from the water and before the boat, if one is used, is brought to shore, and no untagged incidentally caught lake trout may be possessed, bought or sold by licensed commercial fishermen. All incidentally caught live lake trout and all untagged dead lake trout shall be returned to the water immediately.
- f. All lake trout under the legal size limit and other species not provided for in this order taken incidental to any commercial fishing operations shall be returned to the water immediately.
- g. Provisions of Commissioner's Order No. 1365 do not apply to this order.

Sec. 5. Nets for commercial fishing operations are permitted as follows:

- a. Gill nets shall be of mesh no less than two and one-fourth ($2\frac{1}{4}$) inches and no more than two and three-fourths ($2\frac{3}{4}$) inches and, when set, shall be attached at each end to buoys with the number of the owner's license plainly marked on each buoy. Each buoy shall be marked with a white or yellow flag, one foot square, the upper end of which shall extend at least three (3) feet above the surface of the water. In addition, a metal tag two and one-half ($2\frac{1}{2}$) inches by five-eighths ($\frac{5}{8}$) inch bearing in the English language the owner's name and address shall be attached to one end of the float line near first float in accordance with Commissioner's Order No. 1473.
- b. Herring nets for purposes of these regulations are gill nets as described above which are weighted to fish in a floating or suspended position, off the bottom.
- c. Cisco or chub nets for purposes of these regulations are gill nets as described above which are weighted to fish on the bottom.
- d. No more than 100,000 feet of herring net shall be licensed in Minnesota waters of Lake Superior and no more than 2,000 feet of herring net shall be allocated to an individual license except as provided by Minn. Stat. § 102.28, subd. 4 (1978).
- e. No more than 120,000 feet of cisco or chub net shall be licensed in Minnesota waters of Lake Superior and no more than 12,000 feet of cisco or chub net shall be allocated to an individual licensee except as provided by Minn. Stat. § 102.28, subd. 4 (1978).
- f. Pound or trap nets may be of any dimension or mesh size. Trap nets set with anchors shall have at least one buoy supporting a white or yellow flag, one foot square, with the number of the owner's license plainly marked thereon and the upper end extending at least three (3) feet above the surface of the water. In addition, pound or trap nets must be marked with a metal tag two and one-half ($2\frac{1}{2}$) inches by five-eighths ($\frac{5}{8}$) inch bearing in the English language the owner's name and address and attached to the top rope of the back side of the pound or crib in accordance with Commissioner's Order No. 1473.

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

g. Mesh size for purposes of these regulations shall mean the interior distance between the extreme opposite knots or corners of a single mesh, taken between the thumbs and forefingers and applying enough pressure laterally to allow the opposite sides of the mesh to meet.

Sec. 6. The placement of nets shall conform to the following restrictions:

a. No gill nets shall be set within one quarter mile of the shore in the area extending from the Superior entrance to Pigeon River except under permit. Gill nets set on the bottom shall not be in water shallower than 40 fathoms except under permit.

b. Pound and trap nets may be used for the taking of whitefish, menominee whitefish, herring, ciscoes, chubs, alewives, smelt and rough fish. Such nets may be set only in areas approved by the commissioner or his authorized agent.

Sec. 7. No licensed commercial fisherman or any member of his crew or any person in his boat shall have in his possession any sport angling equipment while lifting or traveling to and from net sets.

Sec. 8. Each commercial fishing licensee shall submit to the Area Fisheries Manager, 10029 North Shore Drive, Duluth, Minnesota 55804, a record of his commercial fishing operations for each month of the calendar year. These reports shall be submitted within ten (10) days after the end of the month for which the report is made. Such reports shall be made on forms supplied by the Department of Natural Resources and shall be made regardless of whether fish are taken, and regardless of whether any fishing has been done.

Sec. 9. The director of the division of fish and wildlife may issue permits for experimental commercial fishing operations and assessment netting of fish populations.

Sec. 10. Commissioner's Order No. 2051 is hereby superseded.

Dated this 20th day of April, 1982.

Joseph N. Alexander, Commissioner
Department of Natural Resources

SUPREME COURT

Decisions Filed Friday, May 14, 1982

Compiled by John McCarthy, Clerk

81-1261/Sp. *State of Minnesota v. William Thomas Kealy, Jr., Appellant. Ramsey County.*

Trial court was free to reject recommendation that defendant who pleaded guilty pursuant to a plea agreement receive stay of imposition of sentence rather than stay of execution; however, defendant should be allowed to withdraw his guilty plea pursuant to this agreement where (a) his formal written petition to plead guilty explicitly stated his understanding that he would be permitted to withdraw the plea if the trial court rejected the sentencing recommendation and (b) petitioner's oral statements at the time he entered his plea were not inconsistent with the statement in the petition.

Reversed and remanded. Amdahl, C. J.

81-308 *Gerald Langeland, et al., Appellants, v. The Farmers State Bank of Trimont, Trimont, Minnesota, et al., defendants and third party plaintiffs, Arthur T. Edman, defendant and third party plaintiff, Welcome-Odin Farm Chemicals, Inc., etc., et al., Fred C. Krahmer, third party defendant. Watonwan County.*

Landowners may not recover damages for negligent infliction of emotional distress from bank's attorney who failed to redeem foreclosed property in a timely manner because no attorney-client relationship existed between landowners and bank's attorney.

Damages for emotional distress allegedly resulting from bank's failure to redeem landowner's property may not be recovered absent a showing of physical injury or physical danger to plaintiffs.

Redemption of real property by junior judgment creditor after bank failed to do so in a timely manner does not constitute tortious interference with contractual relations where landowners owed legitimate debt.

Landowners are entitled to recover reasonable attorneys' fees for having certificate of redemption set aside where bank's attorney's failure to effect a timely redemption caused loss of interest in property to junior judgment creditor.

Affirmed in part; reversed in part and remanded. Amdahl, C. J.

81-630/Sp. White Bear Lake Care Center, Inc., Appellant, v. Minnesota Department of Public Welfare. Ramsey County.

Department of Public Welfare's use of a per diem method of calculating implementation of known cost changes pursuant to 12 MCAR § 2.049 (1978) is improper because the method constitutes an unpromulgated rule.

Reversed. Otis, J.

81-708/Sp. State of Minnesota v. Kevin Thomas Dooley, Appellant. Hennepin County.

Defense counsel did not object to any of the statements by the prosecutor in his closing argument which are now claimed to have been improper but instead chose to respond to them in his closing argument to the jury; therefore, under the circumstances of this case, defendant is deemed to have forfeited his right to have the allegations of error considered on appeal.

Affirmed. Todd, J.

51276, 51277, 51552 State of Minnesota v. Jerrold O. Conaway, Appellant. Hennepin County.

There was sufficient evidence to establish collective knowledge of probable cause to arrest appellant.

There was sufficient evidence of intent to convict appellant of possession of tools with intent to commit burglary.

Joinder of offenses was not prejudicial.

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

81-476/Sp. Howard P. Stewart v. City of Lakefield, Appellant. Jackson County.

A claim against a city for damages due to breach of a contract to finance road improvements from general revenues rather than special assessments was waived because not asserted pursuant to Minn. Stat. § 429.081 (1976) or Minn. Stat. § 278.01 (1976).

Reversed. Scott, J.

81-420 Bruce DeCosse, as trustee for the heirs of Napoleon L. DeCosse, deceased, Appellant, v. Armstrong Cork Company, et al., Celeotex Corporation, etc., Combustion Engineering, Inc., Eagle-Picher Industries, Empire Asbestos Company, Fibreboard Paper Products Corporation, etc., Forty-Eight Insulation Company, Flintkote Company, GAF Corporation, etc., Kenne Corporation, MacArthur Corporation, Nicolet Industries, Inc., etc., Owens-Corning Fiberglas Corporation, Owens-Illinois Corporation, Pittsburgh Corning Corporation, Raybestos-Manhattan, Inc., Southern Asbestos Company, etc., Standard Asbestos, Unarco Industries, Inc. Hennepin County.

The limitation period of the Minnesota Wrongful Death Act, Minn. Stat. § 573.02 (1976), is subject to tolling if appellant can establish on remand that respondents fraudulently concealed the facts underlying his cause of action.

Because of the unique character of asbestos-related deaths, wrongful death actions brought in connection with these deaths accrue either upon the manifestation of the fatal disease in a way that is causally linked to asbestos, or upon the date of death—whichever is earlier.

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

81-931 Frances Taylor, complainant, v. Beltrami Electric Cooperative, Inc., Appellant, Minnesota Public Utilities Commission. Beltrami County.

The service connection policy of an electric cooperative is within the jurisdiction of the Minnesota Public Utilities Commission under Minn. Stat. § 216B.17 (1980).

The record contains substantial evidence to support the decision of the Public Utilities Commission that the policy in question is unreasonably discriminatory.

Affirmed. Scott, J.

81-44/Sp. Howard F. Staples, Appellant, v. Mary Staples Miller, et al. Lake County.

The agreement between the plaintiff and the defendants' decedent created a valid conveyance in joint tenancy.

Although a conveyance must be acknowledged and recorded to be valid as against a subsequent purchaser or as against an attachment levied or a judgment obtained thereon, it is not otherwise invalid by virtue of being unrecorded.

The rights of the surviving spouse to her statutory share in her husband's property were extinguished because unexercised within the statutorily prescribed time.

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

81-819 Edward J. Kunze, Appellant, v. White Bear Lake Police Civil Service Commission. Ramsey County.

The statutory right of appeal from a police civil service commission as provided by Minn. Stat. § 419.12 (1980) is not the

SUPREME COURT

exclusive remedy when the police employee and the employer, by written stipulation, have agreed to a different procedure in lieu of any other procedure.

A policeman unfit for duty as a result of a temporary physical illness controllable by medication cannot be considered guilty of inefficiency so as to be grounds for suspension or termination for "just cause."

Reversed. Kelley, J.

81-899 State of Minnesota v. Gary D. Anderson, Appellant. Hennepin County.

Evidence identifying defendant as robber was sufficient, and defendant's claim that he was denied a fair trial by the admission of certain evidence of other misconduct elicited by his counsel is without merit.

Affirmed. Per Curiam.

Decisions Filed Monday, May 10, 1982

81-1360/Sp. State of Minnesota v. Thomas Hale Bush, Appellant. Ramsey County.

District Court was justifiably unable to find that petitioner's early release would not present a danger to the public and would not be incompatible with the welfare of society, and therefore the court properly denied the petition for resentencing according to Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-138/Sp. State of Minnesota v. Bert Ernest Daby, Appellant. St. Louis County.

Petitioner, seeking postconviction relief in the form of resentencing according to the Minnesota Sentencing Guidelines, failed to meet his burden of proving that his early release would not present a danger to the public and would not be incompatible with the welfare of society, and therefore the district court properly refused to resentence petitioner.

Affirmed. Amdahl, C. J. Took no part, Wahl, J.

82-158/Sp. Tracy Burke Stahlberg, Appellant, v. State of Minnesota. Itasca County.

District court properly denied petition for postconviction resentencing according to the Minnesota Sentencing Guidelines where petitioner failed to prove that his early release from his sentences would not present a danger to the public and would not be incompatible with the welfare of society.

Affirmed. Amdahl, C. J.

82-200/Sp. Stephen M. Crawford, petitioner, Appellant, v. State of Minnesota. Hennepin County.

District court properly denied petition for postconviction resentencing according to the Minnesota Sentencing Guidelines where petitioner failed to prove that his early release from his sentence would not present a danger to the public and would not be incompatible with the welfare of society.

Affirmed. Amdahl, C. J.

82-204/Sp. Dean Peter Alexander, petitioner, Appellant, v. State of Minnesota. Hennepin County.

District court properly denied petition for postconviction resentencing according to the Minnesota Sentencing Guidelines where petitioner failed to prove that his early release from his sentence would not present a danger to the public and would not be incompatible with the welfare of society.

Affirmed. Amdahl, C. J.

82-223/Sp. Christopher J. Phelps, Appellant, v. State of Minnesota. Dakota County.

In a postconviction proceeding in which the petitioner sought resentencing according to the Minnesota Sentencing Guidelines, the district court properly denied relief because it was unable to find, as required by law, that petitioner's early release would not be incompatible with the welfare of society.

Affirmed. Amdahl, C. J.

82-234/Sp. State of Minnesota v. Walter Ray Womack, Appellant. Ramsey County.

When a defendant charged with two offenses pleads guilty to one of the offenses on condition that the other will be dismissed, the sentencing court may not, when the allegations of the dismissed offense are in dispute, rely upon those allegations as a ground for aggravating the sentence.

Affirmed as modified. Amdahl, C. J.

82-368/Sp. State of Minnesota v. Renee Rebecca Kempson, Appellant. Scott County.

District court properly denied petition for postconviction relief in the form of resentencing pursuant to the Minnesota Sentencing Guidelines on the ground that petitioner failed to meet her burden of proving that her early release from sentence would not present a danger to the public and would not be incompatible with the welfare of society.

Affirmed. Amdahl, C. J.

Decisions Filed Tuesday, May 11, 1982

82-136/Sp. State of Minnesota v. Edward Odell Champion, petitioner, Appellant. Hennepin County.

District court justifiably refused to find that petitioner's early release from sentence would not present a danger to the public and would not be incompatible with the welfare of society, and therefore the court properly denied the petition for resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-55/Sp. State of Minnesota v. Randall Mitchell, petitioner, Appellant. Hennepin County.

District court properly denied petition by convicted felon from resentencing according to the Minnesota Sentencing Guidelines where petitioner failed to meet his burden of proving that his early release from sentence would not present a danger to the public and would not be incompatible with the welfare of society.

Affirmed. Amdahl, C. J.

STATE CONTRACTS

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

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

Department of Administration Information Services Bureau

Notice of Availability of Contract for Back-up Programming Services

The Information Services Bureau of the Department of Administration of the State of Minnesota is requesting a proposal from qualified firms to provide back-up programming services to be used by the bureau on an as-needed basis. This may involve programming in COBOL, BAL, BASIC, or FORTRAN IV programming languages, with emphasis on COBOL, and BAL. This may also involve coding for the report generators ASI-ST and DYLAKORE. These services may also include designing and coding the linkages to the TOTAL data base manager, and designing and coding for the interface to the on-line monitor CICS. This work may be on projects for any of forty-one (41) state agencies. Proposals for part of this work will be considered (i.e. responders are not required to commit to the entire \$500,000.00). However, the bureau will not consider proposals for increments of less than \$150,000.00.

The bureau reserves the right to contract this work out to several responders, or to award the entire amount to one responder. The total amount expended for this activity will not exceed \$500,000.00 for a period of twelve (12) months (July 1, 1982 through June 30, 1983).

STATE CONTRACTS

The full text of the Request for Proposal is available on request. Inquiries and responses should be directed to:

Norbert A. Bohn
Information Services Bureau
5th floor, Centennial Office Building
658 Cedar Street
St. Paul, MN 55155
(612) 296-6326

Responses must be received no later than 4:00 p.m. on June 9th, 1982.

Department of Administration Information Services Bureau

Notice of Availability of Contract for Back-up System Analysis

The Information Services Bureau of the Department of Administration of the State of Minnesota is requesting a proposal from qualified firms to provide back-up systems analysis services to be used by the bureau on an as-needed basis. This will involve basic systems analysis using the PRIDE systems development methodology. This may involve back-up assistance to a staff analyst of the bureau on a specific phase of project, or taking responsibility for specific phases of a project—this work to be assigned at the discretion of the bureau. This work may be on projects for any of forty-one (41) state agencies. The total amount expended for this activity will not exceed \$100,000.00, for a period of twelve (12) months (i.e. July 1, 1982 through June 30, 1983).

The full text of the Request for Proposal is available on request. Inquiries and responses must be directed to:

Norbert A. Bohn
Information Services Bureau
5th floor, Centennial Office Building
658 Cedar Street
St. Paul, MN 55155
(612) 296-6326

Responses must be received no later than 4:00 p.m. on June 9th, 1982.

Department of Corrections Minnesota Correctional Facility-Shakopee

Notice of Request for Proposals for Food Service Management

Notice is hereby given to request proposals for the professional management of our food service activity at an annual cost not to exceed \$44,000. This proposal shall include all civilian personnel to operate the service. These proposals must be submitted by 4:00 p.m. June 2, 1982 to Will Dague, Business Manager.

Please contact Will Dague at 445-3717 if interested.

Department of Energy, Planning and Development League of Minnesota Cities

District Heating Grant Program

The Department of Energy, Planning and Development and the League of Minnesota Cities have a small amount of money (approximately \$9,000) remaining in their district heating planning grant program. The purpose of the program is to encourage communities to develop new hot water district heating systems or expand existing steam systems.

Applications are due June 7, 1982. If your community is interested in applying for this grant, please contact Mary Lesch, DEPD, 980 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101, phone (612) 297-2324.

Department of Energy, Planning and Development Energy Division

Notice of Request for Proposals for Graphic Design Services

The Energy Division of the Department of Energy, Planning and Development is requesting proposals from contractors to provide the following graphic design services:

- graphic design and illustrations for brochures, newsletters, posters, slides, transparencies, etc.
- page layout,
- keylining.

The \$8,000 contract may be divided among several contractors. Services must be available upon request from July 1, 1982 through June 20, 1983.

Proposals should be submitted by June 7, 1982 stating services offered, hourly rate for those services and any minimum requirements.

Samples of work also must be included.

Contractors must apply for a Certificate of Compliance from the Minnesota Department of Human Rights. Applications can be obtained by written request from the Minnesota Department of Human Rights, Fifth Floor, Bremer Building, St. Paul, MN 55101. All contract bids must include a statement indicating that the bidder has applied for the certificate.

All questions related to this notice and all proposals should be directed to:

Elsa Larson
Minnesota Department of Energy, Planning and Development
980 American Center Bldg.
150 E. Kellogg Blvd.
St. Paul, MN 55101
(612) 296-1880

Department of Energy, Planning & Development Office of Local Government

Notice of Availability of Juvenile Justice Act Funds

The Office of Local Government, Department of Energy, Planning & Development, is accepting applications for juvenile justice programs to begin on or about September 30, 1982, and end no later than June 30, 1983. Eligible program areas include:

- Juvenile Facility Accreditation
- Pre- and Post Adjudication Alternatives
- Improvements to Juvenile Courts
- Training Programs for Juvenile Practitioners

Applications will be due by 4:00 p.m., June 15, 1982, at the Crime Control Planning Board Office, 444 Lafayette Road, St. Paul, MN., 55101. Requests for application forms and inquiries regarding the funds available should be addressed to Judy Plante, Management Analyst Senior, at the above address. Phone (612) 296-3898.

Department of Human Rights

Notice of Availability of Contract for Legal Services to Indians in Northern Minnesota

The Human Rights Department requires the services of local agencies serving Indians in the northern reservations to deliver a series of workshops to inform Indian citizens of their rights under state and federal anti-discrimination laws.

The department will contract with up to three agencies who currently provide services to Indians in the following reservations: Leech Lake, White Earth, Red Lake, Grand Portage, Fond du Lac, Boise Forte, and Mille Lacs. The agencies will be expected to design and deliver five workshops in a twelve-month period, with consultation provided by department staff.

STATE CONTRACTS

The department plans to spend a maximum of \$20,000 on all contracts for a twelve month period.

Those interested may obtain a request for proposal from:

Eileen Shields
Planner
Minnesota Department of Human Rights
7th and Minnesota Street
St. Paul, Minnesota 55101
(612) 297-2780

Requests for proposal will be available through June 14, 1982. All proposals will be due no later than June 28, 1982.

This notice of availability of a contract does not obligate the State to complete the project, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

Minnesota Housing Finance Agency Home Improvement Division

Notice of Request for Proposals for Research Study on Accessory Apartments

The Minnesota Housing Finance Agency is seeking proposals for a research study on the topic of accessory apartments. For the purposes of the study, an accessory apartment is defined as a dwelling unit, with its own living, sleeping, kitchen and bathroom facilities and meeting all applicable zoning and building codes, which is created as an additional unit within an existing single family structure.

The primary purpose of the study is to advise the agency on the opportunities, problems, constraints and circumstances which it is likely to encounter as it develops policies and considers the allocation of financial resources relating to accessory apartments. The study must, as a minimum, include a consideration of the following issues as they pertain to accessory apartments:

1. A review of the existing literature.
2. A review of current Minnesota zoning regulations.
3. A survey of community housing and zoning regulations in Minnesota.
4. A survey of owners who have converted their properties.
5. Identification of structure types suitable for conversion.
6. A survey of private market lending policies.
7. Estimates of typical conversion costs and accompanying analyses of financial feasibility.
8. An assessment of possible technical assistance needs of groups of owners who may potentially convert.

The study must include analyses of all of the above issues. The contractor must provide a final report which includes findings, conclusions and recommendations developed in consultation with the agency. Contractor will be expected to work closely with the agency throughout the course of the study, including periodic review sessions with agency staff.

The agency will pay a maximum of \$12,000 in the form of a fixed fee contract for the study. The final report must be completed by no later than November 1, 1982. Proposals must include the following materials:

1. A summary of the contractor's experience in conducting studies on similar topics. Copies of previous works may be submitted with the proposal and will be returned upon request.
2. Resumes of individuals, if any, who will perform work as a part of the study, including any subcontractors, and an indication of the portion of the study for which they will be responsible.
3. A brief statement indicating how the contractor proposes to deal with each of the above-listed issues.
4. A statement of the fee necessary for the contractor to perform the study.

The successful responder will be required to submit acceptable evidence of compliance with workers' compensation insurance coverage requirements prior to execution of the contract if the contractor is not a single individual.

Evaluation and award will be based on the above factors. Proposals must be received in writing by the agency not later than 10:00 a.m., Tuesday, June 1, 1982.

General inquiries and proposals should be directed to:

Mary Tingerthal
Minnesota Housing Finance Agency
333 Sibley Street—Suite 200
St. Paul, MN 55101
612/297-3126

Department of Labor and Industry

Special Compensation Fund Audit Proposals Requested

The State of Minnesota Department of Labor and Industry is requesting proposals from certified public accounting firms for a comprehensive audit of the State of Minnesota's Special Compensation Fund. The primary emphases of this audit shall be an identification of the fund's financial status and performance, and a critical review of its accounting procedures and internal controls. Based upon the audit findings, the auditor shall recommend and assist in the implementation of relevant changes in procedures and controls.

The proposed contract shall run from June 21, 1982 through September 20, 1982. The department estimates that the cost of this contract will not exceed \$25,000.00. Complete proposals must be received by the department by 4:30 p.m. on June 11, 1982, to be guaranteed full consideration.

This request for proposals does not obligate the state to complete the project, and the state reserves the right to cancel this solicitation if such action is considered to be in its best interest.

I. Scope of the Project

The purpose of this project is to ensure the long-run solvency of the State of Minnesota's Special Compensation Fund, through a critical evaluation of the Fund's present status and implementation of whatever additional procedures and controls are necessary. A variety of analyses will be used to assess the fund's long-run solvency, and the adequacy of present accounting practice and financial management. Based upon these analyses, the contractor will propose to the department changes and improvements which are appropriate, and will assist in the design and implementation of whatever changes are found necessary to incorporate into the Fund's accounting and reporting procedures.

II. Objectives of the Project

The following objectives have been identified by the department as necessary to this project:

- a) To provide a complete and accurate representation of the financial status of the State of Minnesota Special Compensation Fund as of June 30, 1982.
- b) To provide a comprehensive report which describes the performance and effectiveness of the present accounting structure of the fund, including an assessment of the accounting procedures and internal controls which safeguard the fund's solvency.
- c) To provide a set of specific recommendations which identify changes necessary to upgrade the accounting practice and improve the financial status and performance of the fund. The system is to provide current, accurate, and complete information about the condition of the fund. Approaches must be suggested for ways by which these improvements may be incorporated into present practice.

Payment for the entire project shall be in a lump sum payable at time of successful completion of the project.

III. Project Tasks

In order to achieve the objectives of this project, the following tasks are considered crucial to the implementation effort:

- 1) Perform a critical review of all accounting procedures which currently serve to record and/or control the financial transactions of the Special Compensation Fund, including controls for both security and fund management purposes.
- 2) Conduct a funds-flow analysis which can identify and project fund conditions, and assess the ongoing solvency of the fund.
- 3) Conduct an assessment of the financial status of the Special Compensation Fund, as of June 30, 1982.
- 4) Develop a set of written recommendations for the improvement of fund financial management, based upon the data collected in task #1. The recommendations shall include, but not be limited to, consideration of the adequacy of the accounting system's data base, ongoing managerial communication, and processes for feedback and interpretation of the fund's status and performances.

STATE CONTRACTS

5) Develop a comprehensive project report which will identify the audit objectives and methods employed in the project, identify and discuss project findings, and explain proposals for change and improvement of the fund's financial management system.

6) Assist the staff of Labor and Industry with the implementation of those recommendations which have been adopted by fund and department managers, primarily through the provision of technical and procedural advice.

RFP respondents may propose additional tasks or activities as they deem appropriate, in order to illustrate their approach to this project or to substantially improve the results of this project.

IV. Department Contact

Prospective responders who have any questions regarding this request for proposals may call or write:

David O. Renz
Assistant to the Commissioner
Minnesota Department of Labor and Industry
5th Floor, Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-7958

* Please note that no other department personnel are allowed to discuss this project with prospective respondents prior to the submission deadline.

V. Submission of Proposals

All proposals must be sent to and received by:

Russell B. Swanson, Commissioner
Minnesota Department of Labor and Industry
5th Floor, Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101

Not later than 4:30 p.m. on June 11, 1982. Late proposals will not be accepted. Submit two (2) copies of proposals. All proposals are to be sealed in a mailing envelope with the responder's name and address clearly written on the outside. Each copy of the proposal must be signed, in ink, by an authorized member of the firm. Prices and terms of the proposals as stated must be valid for the length of the project.

VI. Project Costs

The Department of Labor and Industry has estimated that the cost of this project should not exceed \$25,000.00.

VII. Project Completion Date

This project will be completed by September 20, 1982, or within three (3) months from the date of project commencement.

VIII. Proposal Contents

The following will be considered minimum contents of the proposal:

1) A restatement and discussion of the project objectives which indicates or demonstrates the responder's understanding of and perspective on the project.

2) Identify and describe deliverables to be provided in the course of the project.

3) Briefly describe the responder's background and experience relevant to this project, particularly governmental audit experience. In the case of responding firms, key project personnel are to be identified and such data provided about each. No change in personnel will be permitted without advance department approval.

4) A general cost and work plan which identifies the major tasks to be accomplished, including a timeline describing phases of completion.

5) Identify the level of department participation necessary to the project, and identify any departmental resources or services which would be provided above and beyond the contract value.

IX. Evaluation

All proposals received by the deadline will be evaluated by the department's executive council. An interview may be a part of the evaluation process. Factors upon which the proposals will be judged include, but are not limited to, the following:

1. Expressed understanding of project objectives.
2. Project Workplan and timeline.
3. Project cost detail.
4. Qualifications of both company and personnel to be assigned to the project.

Evaluation and selection will be completed by June 15, 1982. Results will be sent immediately by mail to all responders.

Department of Public Welfare Mental Health Bureau

Notice of Request for Proposal Concerning Updating of the Fixed Asset Inventory Records of the State Hospitals/Nursing Homes for the Fiscal Year Ending June 30, 1982

Notice is hereby given that the Minnesota Department of Public Welfare is requesting proposals for updating of the fixed asset inventory records of the nine state hospitals and the two state nursing homes for the fiscal year ending June 30, 1982, in accordance with requirements contained in the U.S. Department of Health, Education, and Welfare Provider Reimbursement Manual of Depreciation.

The estimated amount of the contract will not exceed \$11,000.00.

All proposals must be received by 3:30 p.m., June 15, 1982.

Responders interested in obtaining additional information regarding the specific scope of the project should contact:

James A. Walker
Administrative Management Director
Residential Facilities Division
Mental Health Bureau
Department of Public Welfare
4th Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: 612-296-8980

OFFICIAL NOTICES

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

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

Department of Administration

Notice of State Surplus Property Sale

In compliance with Minnesota Statutes § 94.09, *et seq.*, the Commissioner of Administration offers for sale by sealed bids a single family residence at 1304 North Union Street in Fergus Falls. The property is legally described as follows:

Lot 4, Block 1 Fergus Falls Hospital Plat No. 1

The sale shall include the improved site, which measures approximately 72' × 133' +, and the residence described as follows:

A rambler-style three bedroom, one bath, frame dwelling built in 1949. The house has approximately 1176 square feet living area with full basement and a detached single garage.

OFFICIAL NOTICES

This property is one of four residential properties available for sale at this location. Depending on demand, it is contemplated that the remaining three will be offered for sale in the summer of 1982.

The property will be available for inspection by appointment only. Arrangements for showing may be made by contacting Les Baird at the address and telephone in an ensuing paragraph.

Sealed bids for the purchase of the property will be received in the Office of Real Estate Management, Room G-22 State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, until 2:30 p.m. on June 2, 1982, at which time and place bids will be publicly opened and read aloud.

Bids will be accepted only if submitted on forms supplied by the state. Bid forms with complete instructions as to the bidding procedure may be obtained by contacting the Office of Les Baird, Director of Plant Management, Fergus Falls State Hospital, Fergus Falls, Minnesota 56537, telephone 218-739-7321, or Howard Eicher, Assistant Director, Real Estate Management, at the St. Paul address in the previous paragraph, telephone 612-296-6674.

To qualify as an acceptable bid, a bid must be accompanied by bid security in the form of a cashier's check or a certified check or a money order payable to the State of Minnesota in an amount not less than 10% of the bid. The bid security will act as a down payment for the successful bidder. Bid security for all unsuccessful bidders will be returned within 15 days to each respective unsuccessful bidder.

Section 94.09, *et seq.*, of Minnesota Statutes, 1980, requires that the property be sold for a price which is not less than the appraised value plus the cost of the appraisals. In this instance the appraised value and the cost of the appraisals are in the total amount of \$45,000. All bids in an amount less than \$45,000 cannot be accepted.

The successful bidder will have the option of making payment of the balance remaining after use of the bid security as a down payment by one of the two following methods:

1. Payment in full of the remaining balance no later than September 2, 1982;
2. Payment of the remaining balance in not less than equal annual installments for not to exceed five years, with principal and interest payable annually in advance at the rate of 12% per annum on the unpaid balance, by certified check or cashier's check payable to the State Treasurer on or before June 1 of each year.

In the event the successful bidder elects to make payment in installments in accordance with option (2) above, the Commissioner of Administration will enter into a contract for deed with the successful bidder. The contract for deed will set forth the conditions of the sale.

Bidders are advised that the property is offered "as is." Possession will be transferred to the successful bidder immediately after the successful bidder has (1) made payment in full, or (2) entered into a contract for deed with the Commissioner of Administration.

When payment in full has been received by the State of Minnesota, the state shall convey the property by QUIT CLAIM DEED. The State of Minnesota *will not* furnish an abstract. Prospective bidders are hereby admonished that the State assumes no obligation to perform any acts or to pay for any expenses incurred in connection with possible title deficiencies except to deliver an executed QUIT CLAIM DEED. Interested prospective bidders are advised to inspect the real estate and conditions of title in order to insure full knowledge of existing conditions.

The State of Minnesota will pay the real estate taxes, if any, due and payable against this property in the year 1982 and all prior years. The successful bidder shall be responsible for the payment of all real estate taxes due and payable in 1983, if any, and in all succeeding years.

The State of Minnesota will pay in full all special assessments due and payable against this property as of the date of the sale.

The Commissioner of Administration reserves the right to reject any or all bids and to waive informalities therein.

Board of Animal Health

Change of Board Meeting Date

The regular quarterly meeting of the State Board of Animal Health which would normally be held on Friday July 16, 1982 will be held on Friday July 9, 1982.

Dr. J. G. Flint
Secretary and Executive Officer

Department of Commerce Banking Division

Notice of Intent to Solicit Outside Opinion Concerning Amendments to Rules Governing the Operation of Small Loan and Industrial Loan and Thrift Companies

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 small loan and industrial loan and thrift companies. Minn. Rules BD 100-109 and 120-127 are to be reviewed for any necessary or desirable modifications, with a particular view toward removing burdensome or unnecessary requirements and for consistency with recent legislative changes in the Regulated Loan Act, Minn. Stat. ch. 56 (Laws of 1981, ch. 258), as amended in 1982.

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:

Terry R. Meyer
Supervisor of Consumer Credit
Banking Division
500 Metro Square Building
Seventh and Robert Streets
St. Paul, Minnesota 55101
(612) 296-2132

All statements of information and comment shall be accepted until July 5, 1982. 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 Employee Relations

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Personnel Administration

Notice is hereby given that the State Department of Employee Relations is seeking information or opinions from sources outside the agency in preparing to repeal existing rules and promulgate new rules governing personnel administration. The promulgation of these rules is based on the recodification of Minn. Stat. ch. 43 and is authorized by Minn. Stat. § 43A.04, subd. 3 (Supp. 1981), which requires the agency to promulgate rules "to implement the provisions of Chapter 43A which directly affect the rights of or processes available to the general public." The rules will include processes for determining the extent of competition for filling vacancies, recruiting applicants, conducting open competitive examinations, ranking candidates and maintaining competitive open eligible lists; certification and appointment of eligibles from competitive open eligible lists, the method for making noncompetitive and qualifying appointments and the process for designating temporary positions in the unclassified service and making appointments to the unclassified service. They will also include rules governing the statewide affirmative action program, relocation expenses and other authorized employee expenses and procedures for administering the code of ethics. The rules may also include other processes covered in Chapter 43A.

The State Department of Employee Relations 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:

Mark Sundquist
3rd Floor Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-8933 and in person at the above address.

OFFICIAL NOTICES

All statements of information and comment shall be accepted until June 4, 1982. Any written material received by the State Department of Employee Relations shall become part of the record in the event that the rules are promulgated.

Barbara Sundquist, Commissioner
Department of Employee Relations

Department of Energy, Planning and Development Development Resources Division

Department of Revenue Property Equalization Division

Notice of Intent to Solicit Outside Opinions and Information Concerning Rules Governing Designation of Enterprise Zones and Tax Classification of Industrial Employment Property

Notice is hereby given that the State Department of Energy, Planning and Development and the State Department of Revenue are seeking information or opinions from sources outside the agencies in preparing new rules governing "enterprise zones," Minn. Stat. § 273.1312, and tax classification of industrial employment property as defined by Minn. Stat. § 273.1313 (Chapter 523, Article 6, *Laws of Minnesota* 1982) located within these zones. Enterprise zones are areas designated to encourage the location and expansion of job-creating industrial activities. The authority for these rules is contained in Minn. Stat. § 273.1312.

Any person desiring to submit information or comment on the subject of the proposed rules may do so either orally or in writing.

Written and oral comments should be addressed to:

Department of Energy, Planning & Development
Development Resources Division
Attn: Dana Weber-Young
Hanover Building
480 Cedar Street
St. Paul, Minnesota 55101
(612) 296-3976

Department of Revenue
Property Equalization Division
Attn: Michael Wandmacher
Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55145
(612) 296-5135

All statements of information and comment shall be accepted for 30 days from the date of this notice in the *State Register*. Written material received by this date shall become part of the record in the event that rules are promulgated.

W. Wesley Cochrane, Assistant Commissioner
Energy, Planning & Development

Michael P. Wandmacher
Manager, Education Section
Property Equalization Division
Department of Revenue

Minnesota Pollution Control Agency

Notice of Intent to Solicit Outside Opinion Regarding Review of APC 2, Definitions, Abbreviations, Applicability of Standards, Access to Premises, Variances, Circumvention, Severability

Notice is hereby given that the Minnesota Pollution Control Agency is seeking information and opinions from sources outside the agency regarding the review of the existing rule APC 2, entitled Definitions, Abbreviations, Applicability of Standards, Access to Premises, Variances, Circumvention, Severability. In the review process specific consideration will be given to the incorporation of an opacity adjustment procedure and the new federal stack height regulations. Opinions and information on other aspects of the rule are also requested.

Interested persons may submit statements of information and opinions orally or in writing. Written or oral statements should be directed to Richard J. Sandberg at the address or telephone number listed below. Oral comments or inquiries will be accepted during regular business hours over the telephone and in person at the agency office.

Richard J. Sandberg
Minnesota Pollution Control Agency
Division of Air Quality
1935 West County Road B2
Roseville, Minnesota 55113
612-296-7736

All statements of information and opinion will be accepted until June 21, 1982. Any written material received by the agency will be a part of the hearing record in the event amendments to the rule are proposed and public hearings are held.

Dated this 12th day of May 1982.

Louis J. Breimhurst
Executive Director

Office of the Secretary of State Notice of Vacancies in Multi-member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is June 15, 1982.

CITIZEN'S ADVISORY TASK FORCE ON THE BOUNDARY WATERS CANOE AREA has 2 vacancies open immediately. One for a resident of Cook county and one for a resident of Lake county. The task force conducts meetings and research on the establishment and operation of the Boundary Waters Canoe Area; and makes recommendations to the U.S. Forest Service and other federal and state agencies. Members are appointed by the Governor, and are compensated for expenses. For specific information, contact the Citizen's Advisory Task Force on the Boundary Waters Canoe Area, Grand Marais, MN 55604; (218) 287-2020.

POLLUTION CONTROL AGENCY has 1 vacancy open immediately. The agency develops and implements programs to preserve and enhance the air, water and land resources of the state; adopts and enforces rules and regulations; and issues permits to pollution sources. One member must be a person knowledgeable in the field of agriculture. Members of the agency shall be broadly representative of the skills and experience necessary to effectuate the policy pursuant to Minn. Stat. §§ 116.01 to 116.08, except that no member appointed shall be an officer or employee of the state or federal government. Only 2 members at one time may be officials or employees of a municipality or any governmental subdivision, but neither may be a member ex-officio or otherwise on the management board of a municipal sanitary sewage disposal system. Members are appointed by the Governor and confirmed by the Senate. Must file with EPB. Monthly meetings at the agency offices, Roseville. Members receive \$35 per diem plus expenses. For specific information, contact the Pollution Control Agency, 1935 West County Road B-2, Roseville, MN 55113, (612) 296-7373.

ADVISORY COUNCIL ON UNIFORM FINANCIAL ACCOUNTING AND REPORTING STANDARDS has 1 vacancy open for a public member pursuant to Minn. Stat. § 121.901, subd. 1(4). The council provides the Board of Education with uniform accounting and reporting standards for school districts; and formulates and recommends rules, changes in statutes, modification of financial accounting codes, manual procedures and reporting forms. School district employees responsibilities include school financing and accounting. Members appointed by the Board of Education. Monthly meetings at the capitol complex, St. Paul. Public employee members receive no compensation; others are compensated for expenses. For specific information, contact the Advisory Council on Uniform Financial Accounting and Reporting Standards, Room 807, Capitol Square Bldg., St. Paul, MN 55101; (612) 296-9786.

METROPOLITAN AIRPORTS COMMISSION has 1 vacancy open immediately. Must be a resident of the appropriate MAC commissioner precinct. The commission promotes air transportation by developing the Twin Cities as an aviation center, coordinates with other aviation facilities in the state to provide economical and effective use of aeronautic facilities and services; may build new airports or acquire existing airports in the metropolitan area; adopts and enforces regulations to manage all metropolitan airports; has jurisdiction over flight and traffic patterns; controls airport land use and provides for airport noise control. Chairman and 8 members are appointed by the Governor, residing in precincts as determined by Governor. They must file with EPB. Meetings are monthly, and members receive \$50 per diem. For specific information, contact the Metropolitan Airports Commission, 6040 28th Ave. S., Minneapolis 55450; (612) 726-5770.

OFFICIAL NOTICES

HAZARDOUS WASTE MANAGEMENT PLANNING COUNCIL has 18 vacancies open immediately which include 6 public members, 6 representatives of local government units and 6 representatives of hazardous waste generators and private hazardous waste management firms. Members are appointed by the chairperson of the Waste Management Board. Meetings once monthly. Members are compensated for expenses. For specific information contact the Hazardous Waste Management Planning Council, 123 Thorsen Bldg., 7323-58th Ave. No., Crystal, MN 55428; (612) 536-0816.

MINNESOTA-WISCONSIN BOUNDARY AREA COMMISSION has 1 vacancy open immediately. Must be a citizen of Minnesota. The commission makes recommendations on the use, development and protection of the corridor of the St. Croix and Mississippi rivers that forms the interstate border of Minnesota and Wisconsin; assists the 2 states in their participation in federal programs affecting the rivers. Ten members, 5 from each state, are appointed by the Governor and confirmed by the Senate. Bi-monthly meetings are held, and members are reimbursed for expenses. For specific information, contact the Minnesota-Wisconsin Boundary Area Commission, 619-2nd Street, Hudson, WI 54016; (612) 436-7131.

Minnesota Teachers Retirement Association

Meeting Notice

The Board of Trustees, Minnesota Teachers Retirement Association, will hold a meeting on Thursday, June 3, 1982, at 1 p.m. in the office of the association, 302 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota, to consider matters which may properly come before the board.

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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
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