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STATE REGISTER

STATE OF MINNESOTA

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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 7			
32	Monday Jan 24	Monday Jan 31	Monday Feb 7
33	Monday Jan 31	Monday Feb 7	Monday Feb 14
34	Monday Feb 7	Friday Feb 11	Monday Feb 21
35	Friday Feb 11	Friday Feb 18	Monday Feb 28

*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*.

Rudy Perpich
Governor

Carol Anderson Porter
Editor

Sandra J. Hale
Commissioner
Department of Administration

Paul Hoffman, Robin PanLener, Roy Schmidtke, Jean Walburg
Editorial Staff

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Margaret Connelly
State Register Index Editor

Debbie Kobold
Circulation Manager

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

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

The **PROPOSED RULES** section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The **ADOPTED RULES** section contains:

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

ALL ADOPTED RULES and **ADOPTED AMENDMENTS TO EXISTING RULES** published in the *State Register* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. **ADOPTED RULES** and **ADOPTED AMENDMENTS TO EXISTING RULES** filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in late summer 1983. In the **MCAR AMENDMENT AND ADDITIONS** listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the *1982 Reprint* due to the short-term nature of their legal effectiveness.

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

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

Executive Order No. 83-3

Restricting State Hiring, Procurement and Expenditures

I, RUDY PERPICH, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, the most recent economic forecasts for the nation and state indicate a continuation of reduced revenues to the state; and

WHEREAS, it is the policy of this administration and a requirement of the Constitution that the State of Minnesota conclude the current biennium with a balanced budget; and

WHEREAS, it is necessary to reduce current expenditures in order to meet that policy and requirement;

NOW, THEREFORE, I Order:

1. No appointing authority in the Executive Branch of state government shall employ any person to fill a vacant position (classified or unclassified) which is paid from the General Fund during the pendency of this Order except as provided in paragraph 2.

2. This prohibition on hiring shall not extend to positions to be filled by a person who:

a. Will be providing direct care to patients at state institutions;

b. Will be providing direct supervision of inmates at correctional facilities;

c. Will be performing services necessary to the maintenance of public safety or otherwise essential to the operation of state government as determined by the Executive Secretary of the Cabinet in consultation with the Commissioners of Finance, Employee Relations and Administration;

d. Will provide direct instructional services to students in the state's post-secondary institutions if such position is committed to on the effective date of this order;

e. Is on leave from a state position and elects to continue employment with the state;

f. Will perform services as an inmate, resident or student employee of a state institution;

or

g. Has received commitment of appointment to a state position previous to the effective date of this Order.

3. No person in the Executive Branch shall execute on behalf of any state agency during the pendency of this Order a contract for the performance of consultant services as defined by Minnesota Statutes, Section 16.098 and to be paid from the General Fund unless the Executive Secretary of the Cabinet, in consultation with the Commissioners of Administration and Finance, determines that the services to be performed are essential to the maintenance of public safety or are otherwise essential to the operation of state government.

4. No procurement transactions shall be processed on behalf of any agency of state government against the General Fund unless the Commissioner of Administration determines that the goods or services to be purchased are essential to the operation of state government.

5. No person in the Executive Branch shall engage in travel to be paid from the General Fund unless the head of the agency employing the person determines that such travel is necessary to the effective operation of state government.

6. None of the foregoing provisions shall be interpreted to invalidate any legal or contractual obligations of the state.

EXECUTIVE ORDERS

7. All commissioners and agency heads shall take steps to limit expenditures which are not otherwise limited by the above provisions. Each agency head shall review and certify any request for exemption from the provisions of this Order before such request is submitted to the appropriate approving authority as identified above.

8. Because of the need to take immediate action, this Order shall be effective at 2:01 p.m., January 19, 1983.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 19th day of January, 1983.



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 Board of Barber Examiners

Proposed Rules Amending License and Renewal Fees

Notice of Intent to Amend Rules without a Hearing

Notice is hereby given that the Board of Barber Examiners has proposed the following rules amending the fees charged for license issuance and renewal. These rules are promulgated pursuant to Minn. Stat. §§ 214.06, subd. 1 (Supp. 1981); 15.0412, subds. 4 and 4h (Supp. 1981); 16A.128 (Supp. 1981); as amended by Laws of 1981 Third Special Session, ch. 2, Art. I, § 11. These provisions authorize the Board of Barber Examiners to adopt rules amending its fees without a public hearing when the total fees estimated to be received during the fiscal biennium will not exceed the sum of all direct appropriations, indirect costs, transfers in, and salary supplements for that purpose for the biennium.

No hearing will be held prior to the promulgation of these rules by the Board of Barber Examiners. All interested persons are hereby afforded the opportunity to submit their comments on the proposed rules for 30 days immediately following publication

PROPOSED RULES

of this material in the *State Register* by writing to Executive Secretary, Board of Barber Examiners, 500 Metro Square Building, St. Paul, Minnesota 55101. The proposed rules may be modified if modifications are supported by the data and views submitted. Any written material received shall become part of the record in the final adoption of the proposed rules. Any person who desires to be notified when the proposed rules and record herein are submitted to the Attorney General should so inform the Executive Secretary of the Board of Barber Examiners. Publication is hereby ordered.

January 17, 1983

Adam J. Mikrot
Executive Secretary

Rule as Proposed

4 MCAR § 8.079 Fees. The Board of Barber Examiners shall charge the following fees:

examination and certificate, registered barber	\$	48	<u>50</u>
examination and certificate, apprentice		46	<u>48</u>
examination, instructor		150	
certificate, instructor		35	
renewal of license, registered barber		20	
renewal of license, apprentice		18	
renewal of license, instructor		35	
student permit		10	
initial shop registration		50	
initial school registration		1,000	
renewal shop registration		40	<u>25</u>
renewal school registration		200	
restoration of registered barber license		25	<u>45</u>
restoration of apprentice license		25	<u>43</u>
restoration of shop registration		25	<u>50</u>
change of ownership or location		40	<u>25</u>
duplicate license		5	<u>10</u>

Department of Energy, Planning and Development Energy Division

Proposed Temporary Rules Amending the Minnesota Energy Conservation Service Program

Request for Public Comment

Notice is hereby given that pursuant to Minn. Stat. § 116J as well as 116H.08(a) and 116H.07(i), the Department of Energy, Planning and Development proposes to adopt a temporary program rule amending the Minnesota Energy Conservation Service Program.

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

Greg Hubinger
Manager of Residential Programs
Energy Division
980 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 297-2117

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

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

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

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

Robert G. Renner, Jr.
Commissioner

[TEMPORARY] Rule as Proposed

6 MCAR § 2.2301 [TEMPORARY] Definitions.

For the purpose of these rules, the following definitions apply:

A.-U. [UNCHANGED.]

V. [TEMPORARY] Residential building. Any structure used for residential occupancy including any building containing at least one, but not more than four, dwelling units, and, has a system for either heating or cooling living spaces. “Residential building” also includes any building that contains more than four dwelling units, unless the building contains a central heating system, a central cooling system, or both. However, this definition does not include: new buildings to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act (42 United States Code, section 6801 et seq) apply.

Department of Public Safety Driver and Vehicle Services Division

Proposed Rules Governing the Appointment and Operating Requirements of Deputy Registrar Offices

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, subdivision 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, subdivision 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:

Diane Hamilton
Department of Public Safety
211 Transportation Building
St. Paul, MN 55155

The department's authority to adopt the proposed rules is contained in Minn. Stat. §§ 168.33 and 15.0411, subd. 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, the notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for

review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. chapter 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, subdivision 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, subdivision 7.

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

Paul J. Tschida
Commissioner of Public Safety

Rules as Proposed (all new material)

11 MCAR § 1.6120 Purpose and scope.

A. Purpose. The purpose of 11 MCAR §§ 1.6120-1.6125 is to carry out the mandate of the legislature as set forth in Minnesota Statutes, section 168.33 with respect to the appointment and regulation of motor vehicle deputy registrars.

B. Scope. The scope of 11 MCAR §§ 1.6120-1.6125 is intended to be confined within the framework of and to be consistent with Minnesota Statutes, chapters 168 and 168A.

11 MCAR § 1.6121 Definitions.

For the purposes of 11 MCAR §§ 1.6120-1.6125, the following terms have the meanings given them.

A. Registrar. "Registrar" has the meaning given it in Minnesota Statutes, section 168.011, subdivision 18.

B. Application. "Application" has the meaning given "application for registration" in Minnesota Statutes, section 168.011, subdivision 2, and includes a reapplication.

C. Metropolitan area. "Metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2.

11 MCAR § 1.6122 Criteria for establishing a new office or a new deputy registrar appointment.

A. Within the metropolitan area and in cities of over 50,000 population. The following conditions must be met before a new deputy registrar office is approved or a new deputy registrar is appointed:

1. The estimated number of applications that a new deputy registrar office will process annually must be at least 20,000. The number of applications will be estimated as follows: 40 percent of the applications processed within the preceding year by existing deputy registrar offices located within a four-mile radius of the proposed new office or 25 percent of the applications processed within the preceding year by existing deputy registrars within six miles of the proposed new office, whichever is the larger.

2. The proposed new office must not be located within three miles of an existing deputy registrar office.

B. Other areas. In all other cities not included in A., the following conditions must be met before a new deputy registrar office is approved:

1. The estimated number of applications that a new deputy registrar office will process annually must be at least 5,000. The number of applications will be estimated as follows: 20 percent of the applications processed within the preceding year by existing deputy registrar offices located within 20 miles of the proposed new office, or, if there is no existing deputy registrar office located within 20 miles of the proposed new office, the total number of new car sales, multiplied by four, made by all new car dealers within 25 miles of the proposed new office as determined by a survey taken by the registrar, plus one-half the population of all towns and cities that are closer to the new proposed office than to any existing deputy registrar office.

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

2. The proposed new office must not be located within 15 miles or 25 minutes driving time of an existing deputy registrar office, except in cities having a population of 25,000 to 50,000.

3. The proposed new office must not be located in a city of less than 25,000 population if there is an existing deputy registrar office in that city.

4. The proposed new office must not be located in a city having a population of 25,000 to 50,000 unless there are less than two existing deputy registrar offices in that city.

11 MCAR § 1.6123 Deputy registrar office requirements.

A. Generally. Any new office or change in location must comply with B.-G.

B. Exclusive area. A deputy registrar office must contain an area or room used exclusively for processing applications. It may not be used for living space or for transacting any other business. A counter or divider must be installed within the exclusive area or room to separate the public from the deputy registrar and employees.

C. Security. The following security requirements must be provided:

1. The office must contain a secured area to store plates and stickers.

2. The office must contain a security safe or vault.

D. Size of exclusive area. The size of the exclusive area or room is based on the projected estimated number of applications that will be processed annually by the deputy registrar.

1. If the projected estimated number of applications to be processed annually is between 5,000 and 8,000, the exclusive area or room must contain a minimum of 300 square feet.

2. If the projected estimated number of applications to be processed annually exceeds 8,000, the exclusive area or room must contain a minimum of 400 square feet.

E. Accessibility. The office must be accessible to the handicapped.

F. Identification. An outdoor sign must be prominently displayed to identify the office.

G. Conflicting business interests. A deputy registrar office may not be operated in conjunction with the sale of motor vehicles or automobile insurance.

11 MCAR § 1.6124 General operating rules for deputy registrars.

A. Sole operator. A deputy registrar must manage the office in accordance with the following:

1. Except for publicly operated and American Automobile Association deputy registrar offices, a deputy registrar must be the principal person in charge of the office and must actively participate in the processing of applications.

2. Except for publicly operated and American Automobile Association deputy registrar offices, a deputy registrar may not delegate to another person the authority or responsibility of operating the office. The deputy must be in the office operating it on a full-time basis.

B. Hours. Deputy registrar offices must be open for business at least 40 hours during each normal workweek.

C. Solicitation. Deputy registrars may not solicit or seek to provide service beyond 75 percent of the distance between his or her office and the office of another deputy registrar.

D. Location. A deputy registrar appointment is for operating an office in the specific location named by the registrar. A deputy registrar may not change the office location without the approval of the registrar.

E. Filing fees. Filing fees must be governed by the following requirements:

1. A deputy registrar must charge and receive the full filing fee specified by law. Rebates are prohibited.

2. No additional fee may be charged for a correction required in a previously submitted application if the error requiring the correction was made by the registrar, a member of the registrar's staff, or by a deputy registrar or employee of a deputy registrar.

11 MCAR § 1.6125 Penalty.

The registrar shall revoke the appointment of any deputy registrar who violates any requirement of Minnesota Statutes, section 168.33 or 11 MCAR §§ 1.6120-1.6125, unless the violation is corrected or discontinued or any deficiency supplied within 30 days after the registrar has given notice to the deputy registrar of the violation. Notice shall be given by certified mail.

Department of Public Safety Administration Division

Proposed Rules Governing the Method of Identification and Signals for School Safety Patrol

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, subdivision 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, subdivision 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:

Diane Hamilton
Department of Public Safety
211 Transportation Building
St. Paul, MN 55155

The department's authority to adopt the proposed rules is contained in Minn. Stat. § 126.15. 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 be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. chapter 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, subdivision 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, subdivision 7.

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

Paul J. Tschida
Commissioner of Public Safety

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

Rules as Proposed

~~SafAd 65~~ 11 MCAR § 1.0065 Purpose and scope.

(a) A. Purpose. The purpose of ~~this regulation~~ 11 MCAR §§ 1.0065-1.0071 is to establish the method of identification and signals for school safety patrol, including equipment standards and proper usage procedures.

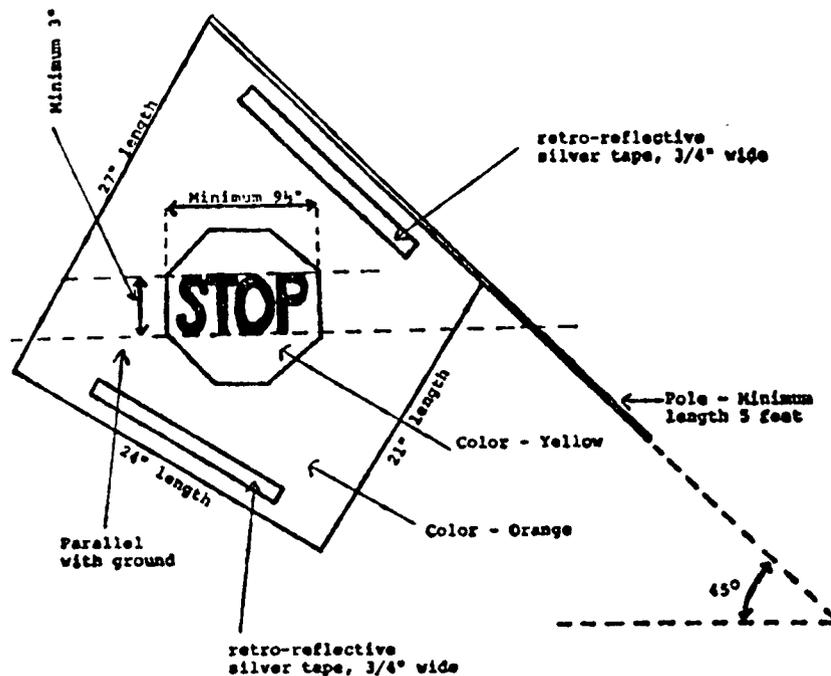
(b) B. Scope. The scope of ~~this regulation~~ 11 MCAR §§ 1.0065-1.0071 is intended to be consistent with the provisions of Minnesota Statutes (~~1971~~), section 126.15.

~~SafAd 66~~ 11 MCAR § 1.0066 School safety patrol flag and pole.

Each school safety patrol flag shall meet the following standards:

- (a) A. The flag shall be blaze orange in color with an octagonal of yellow bearing the word "STOP" in black letters.
- (b) B. The flag shall be 24 inches in width at the bottom.
- (c) C. The inside edge of the flag shall be 21 inches in length.
- (d) D. The outside edge of the flag shall be 27 inches in length.
- (e) E. The octagonal center of yellow shall measure at least 9½ inches from side to side and the black letters of the word "STOP" shall be in a block type at least three inches in height.
- (f) F. The letters of the word "SCHOOL" appearing above the word "STOP" shall be in block type at least 1¼ inches in height.
- (g) G. The letters of the word "PATROL" appearing below the word "STOP" shall be in block type at least 1¼ inches in height.
- (h) H. The octagon shall be affixed to the flag in such a manner that the bottom side of the octagon and the word "STOP" shall be parallel with the ground when the pole is held at a 45 degree upward angle, as illustrated on the drawing attached to and made part of this regulation in exhibit 11 MCAR § 1.0066 H.-1.

Exhibit 11 MCAR § 1.0066 H.-1.
School safety patrol flag illustration.



Octagon is sample for illustration purposes only.
Size and exact placement not drawn to scale.

(+) I. The octagonal yellow field shall be centered equidistantly from the sides and bottom of the flag.

(+) J. Both sides of the flag shall be identical.

(+) K. Retro-reflective material may be applied to the flag if the school administrator deems such application is necessary and feasible. If reflectorized, such application must be accomplished in conformance with the following specifications:

(+) 1. Two, three-fourths inch strips of retro-reflective silver tape shall be either pressed on or sewn on both sides of the flag.

(+) 2. The top strip shall be placed three inches from the top (pole) edge of the flag; and the bottom strip shall be placed three inches from the bottom (opposite) edge of the flag. Both strips shall be centered equidistantly from the sides, and must be a minimum of eight inches in length.

(+) L. The flag shall be attached to a lightweight pole with a minimum length of five feet. Longer or extension poles may be used at crossings on unusually wide streets. Weights may be attached to the bottom of the flag to hold it in a vertical position in windy weather in order to be visible to the approaching drivers.

~~SafAd 67~~ 11 MCAR § 1.0067 Equipment worn by patrol member.

(+) A. Sam Browne belt. The Sam Browne belt, vest, or sash with pole socket worn by a school safety patrol member shall be made of leather, web, or plastic material. ~~When possible,~~ This equipment shall be worn over outer garments while on duty. Color may be white or blaze orange.

(+) B. Safety patrol badge. The school safety patrol badge may be worn by each patrol member while on duty. This badge shall be attached to the Sam Browne belt, vest, or sash in such position as to be plainly visible.

~~SafAd 68~~ 11 MCAR § 1.0068 Position and procedure at street intersection or crossing.

A school patrol member must comply with the following procedures at street intersections and crossings:

(+) A. The patrol member shall stand on the road shoulder or curb (not in the roadway) where ~~he shall observe~~ traffic shall be observed approaching ~~traffie~~ from all directions.

(+) B. The patrol member shall instruct the children to remain in place until ~~he sees~~ a break or lull in traffic is seen. During this time, except when actually issuing directions to the children, ~~he the patrol member~~ shall stand erect and at attention with the flag staff resting on the ground in a vertical position ~~at~~ to the right of his the right foot. In this latter position ~~he the patrol member~~ will more readily be observed by drivers of approaching vehicles.

(+) C. When a lull occurs in traffic ~~the patrol member shall raise~~ the flag shall be raised vertically upward over the patrol member's head for a period of four seconds, to alert any oncoming traffic.

(+) D. When the lanes of roadway are clear of traffic the patrol member shall extend the flag into ~~his the~~ traffic lane at an angle of approximately 45 degrees upward. This will be the signal for all the children to start crossing the street. Holding the flag at a 45 degree angle will place it above the heads of the children. ~~If~~ With two patrol members are used at one intersection, each member shall make a quarter turn in the direction of the oncoming traffic ~~on his side of the street or road~~ with at least one foot remaining on the curb or shoulder.

(+) E. While children are crossing the street in a column, the patrol member shall keep ~~his this~~ position while watching or facing approaching traffic.

(+) F. If ~~his the~~ the patrol member's view of traffic is obstructed by parked ~~cars~~ vehicles, the patrol member may step into the street a sufficient distance to obtain a clear view, but not ~~more than one pace~~ into the street beyond the fender line of the parked cars vehicles. After the children have completed crossing the street, the patrol member shall return to ~~his~~ the original position on the shoulder or curb.

(+) G. Under no circumstances shall the flag ever be waved or misused in any manner.

(+) H. There shall be ~~one or more~~ at least two patrol members at each crossing. ~~When two are used,~~ One patrol member shall operate as sender on the side from which the children gather, and the other shall take a similar position on the opposite side of the roadway and operate as the receiver.

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PROPOSED RULES

(i) ~~At least two patrol members shall be used at a particular crossing when, in the opinion of local law enforcement officials, traffic is such that more than one patrol member is needed for the safety of the school children.~~

(j) I. Patrol members shall continually watch oncoming traffic while children are crossing the roadway and be constantly alert for danger. They shall stand between the children and approaching traffic with at least one foot remaining on the curb or shoulder.

~~SafAd 69~~ 11 MCAR § 1.0069 Procedure at railroad crossings.

(a) ~~The patrol flag shall never be used at railroad crossings. (b) The patrol member shall direct children to remain at least a distance of 20 feet from the nearest railroad track until he the patrol member has completed his an inspection to see if there are any approaching trains. When there are no approaching trains, he shall direct the children shall be directed to cross the tracks and by the patrol member who shall remain at his the proper position until all have crossed.~~

~~SafAd 70~~ 11 MCAR § 1.0070 School bus safety patrol procedures.

(a) A. School bus crossing at railroad tracks. Patrol members shall motion the bus across the railroad tracks in the following manner:

(1) 1. Patrol members shall take a position so as to have a clear view of the railroad track in both directions.

(2) 2. If a train is approaching the crossing, the patrol member shall not cross the tracks but shall face the bus at a safe distance from the tracks and give the signal for the bus not to proceed by holding up both hands above his or her head.

(3) 3. When the railroad track is clear and safe for crossing, the patrol member shall cross the tracks and signal, with a forward motion of his an upraised arm, for the driver to proceed across the tracks to a point at least 2½ bus lengths beyond the tracks, where the patrol member shall reenter the bus.

(b) B. Crossing roadways from a school bus.

(1) 1. The driver of a school bus is responsible for the safety of the children, and the presence of a school bus safety patrol member in no way relieves him the driver of such responsibility.

(2) 2. In directing pupils across the roadway after alighting from the bus, the patrol member shall escort the pupils to a position at least ten feet in front of the bus. When he has it is ascertained that there is no approaching traffic, he the patrol member shall step out one pace beyond the fender line of the bus and extend his the flag into the opposite lane at a 45 degree angle and direct the pupils to proceed across the roadway.

(3) 3. The patrol member shall not escort each pupil across the roadway, but shall remain at his the designated post near the front of the bus.

(4) 4. Crossing the roadway behind the bus shall never be permitted.

~~SafAd 71~~ 11 MCAR § 1.0071 Police officer, traffic signal control.

(a) A. Traffic controlled intersections. At intersections where traffic is controlled by a police officer, a traffic signal, or both, the patrol member shall direct the crossing of the children in conformity with the direction of the signal or the police officer.

(b) B. Intersections not regularly controlled. At intersections where there is no regular traffic control, the traffic may be sufficiently heavy to require the special assignment of a police officer at times when children are going to and from school. When this is done, the patrol member should cooperate with police officers.

Repealer. SafAd 72 and 73 are repealed.

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, subdivision 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, subdivision 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:

Diane Hamilton
Department of Public Safety
211 Transportation Building
St. Paul, MN 55155

The department's authority to adopt the proposed rules is contained in Minn. Stat. §§ 299C.03 and 609.67. 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 be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. chapter 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, subdivision 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 Section 15.0412, subdivision 7.

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

Paul J. Tschida
Commissioner of Public Safety

Rules as Proposed (all new material)

11 MCAR § 1.3060 Statutory authority.

Rules 11 MCAR §§ 1.3060-1.3066 are adopted pursuant to the authority granted to the superintendent of the Bureau of Criminal Apprehension by Minnesota Statutes, sections 299C.03, and 609.67.

11 MCAR § 1.3061 Definitions.

- A. Applicability. For the purpose of 11 MCAR §§ 1.3060-1.3066, the following terms have the meanings given them.
- B. Bureau. "Bureau" means the Minnesota Bureau of Criminal Apprehension.
- C. Collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and approved machine guns and

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PROPOSED RULES

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" means firearms which have been determined by the superintendent of the bureau or his delegate pursuant to Minnesota Statutes, section 609.67, subdivision 3, clause (3) to be firearms which appear on the National Firearms Act Curios and Relics List, as provided by United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

D. Report form. "Report form" means the official form created by the Bureau of Criminal Apprehension which contains data required by Minnesota Statutes, section 609.67, subdivision 4.

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

11 MCAR § 1.3062 Procedures for reporting ownership or possession of machine guns or short-barrelled shotguns.

A. Requirements. If a person owns or possesses an approved machine gun or short-barrelled shotgun, the following procedures must be followed.

B. Report. The person shall send to the superintendent a completed Bureau of Criminal Apprehension report form indicating the ownership or possession of an approved machine gun or short-barrelled shotgun. This form must be sent within ten days after the applicant takes possession or ownership of the approved machine gun or short-barrelled shotgun.

C. Fee. The reporting person shall send a \$15 nonrefundable fee with each report form.

D. Taking ownership or possession of firearm. Within ten days of taking ownership or possession, the person who takes ownership or possession shall send the superintendent one fully completed copy of the approved report form indicating the date the firearm was transferred and shall certify that the firearm is now owned or possessed by the person making the report.

11 MCAR § 1.3063 Return of report form.

The superintendent shall return the report form to the reporting person if:

A. the reporting person misrepresents, falsifies, or fails to complete any information on the report form; or

B. the superintendent determines that the firearm is not a firearm which appears on the National Firearms Act Curios and Relics List, as specified under United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

11 MCAR § 1.3064 Right to contest decision.

If the superintendent returns the report form to the reporting person, that person may contest the decision of the superintendent. Proceedings shall be conducted pursuant to the Administrative Procedure Act, Minnesota Statutes, sections 14.57-14.70, and 9 MCAR §§ 2.201-2.222 of the Office of Administrative Hearings.

If the superintendent refuses to accept the report form on the grounds of 9 MCAR § 1.3063, the person attempting to make the report required by Minnesota Statutes, section 609.67 shall be deemed to have not made the required report.

11 MCAR § 1.3065 Data privacy.

Report forms and associated documents shall be filed with the Bureau of Criminal Apprehension and shall be considered private data, available only to law enforcement officials.

11 MCAR § 1.3066 Limited protection of reporting information.

All persons possessing or owning a machine gun or a short-barrelled shotgun prior to the effective date of 11 MCAR §§ 1.3060-1.3066 have 90 days after the effective date to report the possession or ownership. The information contained in the report form submitted to the superintendent within 90 days of the effective date of these rules shall not be used against the reporting person in any criminal proceeding.

Waste Management Board

Proposed Rules to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Waste Management Board proposes to adopt the above-entitled rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21 to 14.28 (1982).

PROPOSED RULES

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

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes sections 14.13 to 14.20 (1982).

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

Waste Management Board
Attn: Sharon Decker
123 Thorson Building
7323 - 58th Avenue North
Crystal, MN 55428
(612) 536-0816

Authority for the adoption of these rules is contained in Minnesota Statutes section 115A.10. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Waste Management Board, Attn: Sharon Decker, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, MN, upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to the Waste Management Board, Attn: Sharon Decker, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, MN 55428.

The rules proposed for adoption relate to the following matters: (1) purpose of the rules; (2) definitions; (3) requirements and limitations of clearance; (4) general and specific information which must be submitted in clearance applications; (5) board decision; (6) notice of final decision; and (7) expiration of clearance.

Copies of this notice and the proposed rules are available and may be obtained by contacting the Waste Management Board, Attn: Sharon Decker, 123 Thorson Building, 7323—58th Avenue North, Crystal, MN 55428.

January 14, 1983.

Robert G. Dunn, Chairman
Waste Management Board

Rules as Proposed (all new material)

6 MCAR § 8.501 Purpose.

The purpose of 6 MCAR §§ 8.501-8.507 is to establish a procedure to assure that hazardous waste facility operators have the necessary technical and business competence. Rules 6 MCAR §§ 8.501-8.507 are not intended to duplicate the review required under pollution control agency permitting authority.

6 MCAR § 8.502 Definitions.

- A. Scope. For the purposes of 6 MCAR §§ 8.501-8.507 the terms defined in this rule have the meanings given them.
- B. Applicant. "Applicant" means a person filing an application.
- C. Application. "Application" means the information submitted to the board pursuant to 6 MCAR § 8.504.
- D. Board. "Board" means the Waste Management Board.
- E. Chairperson. "Chairperson" means the chairperson of the board.
- F. Clearance. "Clearance" means the board's approval of an application.
- G. Commercial waste processing facility. "Commercial waste processing facility" means a facility established and permitted to sell hazardous waste processing services to generators other than the owner and operator of the facility and located within an

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PROPOSED RULES

area in the board's inventory of preferred areas for hazardous waste processing facilities. For purposes of this definition processing means the treatment of waste after collection and before disposal and includes, but is not limited to, incineration, reduction, storage, separation, exchange, resource recovery, physical, chemical, or biological modification, and transfer from one waste facility to another.

H. Hazardous waste. "Hazardous waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 13.

I. Person. "Person" means a natural person or a corporation, association, operation, firm, partnership, trust, or other form of organization.

6 MCAR § 8.503 Requirements and limitations.

A. Clearance required. A person who is required to obtain a pollution control agency permit for a commercial waste processing facility to be located within an area of the board's inventory of preferred areas for hazardous waste processing facilities established under Minnesota Statutes, section 115A.09, and which will begin operation after the effective date of 6 MCAR §§ 8.501-8.507 must obtain clearance prior to applying for a permit.

B. No property right or exclusive privilege. Clearance does not convey property rights of any kind or an exclusive privilege.

C. Changed plans. Clearance entitles an applicant to request a pollution control agency permit only for a commercial waste processing facility substantially similar to the facility described in the application. The applicant must supply the most recent plans for facility development available with the understanding that details of the plan may change as development progresses. If plans for the facility or for facility development change substantially prior to application for a pollution control agency permit, the applicant must submit a new application for clearance.

D. Acquisition or location of property. Property to be used as the site for the proposed facility need not be acquired or identified by the applicant prior to clearance.

6 MCAR § 8.504 Application.

A. Applicants. To obtain clearance, a person must complete, sign, and submit an application to the board. The application for clearance for a facility which will be owned by one person and operated by another must be signed by both the owner and the operator.

B. General contents. An application must be in the form specified by the board and must contain the following information:

1. the complete name of the applicant, all other names under which the applicant has done business during the ten years prior to the application, and the approximate times during which those names were used;
2. the principal business address of the applicant, all other addresses from which the applicant has done business during the ten years prior to the application, and the approximate times during which those addresses were used;
3. the form of the applicant's business indicating the type of business association;
4. a general description of the types and amounts of hazardous waste the facility would be capable of handling and a general description of the proposed operation including methods of accepting, storing, and processing hazardous waste;
5. the names and addresses of all officers, partners, or directors of the applicant; and
6. the following information concerning any notices, stipulation agreements, administrative orders, license revocations, or permit revocations issued by any state or federal authority citing a violation of any administrative rule, regulation, or statute relating to hazardous waste management against the applicant or against any officer, director, or partner of the applicant within the last ten years, and any judgment or conviction under any state or federal rule, regulation, or statute or local ordinance concerning hazardous waste management entered against the applicant or against any officer, director, or partner of the applicant which has been issued within the last ten years:
 - a. the name and address of the individual or company involved;
 - b. the date and nature of the incident;
 - c. the agency or individual taking the action; and
 - d. the response made by the individual or company to correct or contest the violation.

C. Technical information. An application must contain the following information:

1. the duties and responsibilities of subcontractors and the anticipated operating staff, including job descriptions and qualifications of technical management, supervisory, and operating employees, and an organizational chart of the applicant for operation of the proposed facility; and
2. a disclosure of hazardous waste management related business activities which the applicant, its parent corporation, any subsidiary of the applicant, or any other subsidiary of the parent corporation of the applicant is or has been engaged in

during the ten years prior to the date of the application, the approximate times during which the activity has been engaged in, and, if the activity involves operation and maintenance of a waste management facility, the location of each facility and a description of the type of facility, the processes used, the facility capacity and approximate amount of waste handled annually, the date the operation began and the date it closed if the facility is no longer operating, any licenses or permits issued for the facility, and the reasons for discontinuing the activity if it has been discontinued.

D. Development plan and financial information. An application must contain the following information:

1. a statement of the anticipated development plan for the proposed facility including the following:

- a. facility design;
- b. environmental reports;
- c. hearings on permit application;
- d. community relations activities;
- e. marketing;
- f. preparation of permit application;
- g. site acquisition and preparation;
- h. construction;
- i. equipment and materials acquisitions;
- j. operator recruitment and training;
- k. first year operation;
- l. monitoring;
- m. insurance; and
- n. contingencies;

2. a statement of the total anticipated expenditures for the project and an indication of how those expenditures will be financed;

3. for each of the items in the development plan, when applicable, whether the activity will be carried out by personnel currently employed by the applicant, by personnel who will be employed by the applicant in the future, or by independent contractors;

4. a description of potential or contingent liabilities which could materially alter the applicant's future financial position; and

5. a disclosure of any petition filed by the applicant or its parent corporation within the last five years under the Federal Bankruptcy Act or any state insolvency law.

E. Additional information. The chairperson may require an applicant to submit additional information or may undertake additional investigations if the chairperson determines that the information would be necessary in deciding whether clearance should be granted.

F. Deficient application. If an application does not conform to this rule, the chairperson shall, within 30 days after receipt of the application, return it to the applicant with a statement identifying the deficiencies in the application.

G. Acceptance of application. The chairperson shall accept a completed application on behalf of the board if it conforms to this rule.

H. Notification of acceptance. Upon acceptance of a complete application, the chairperson shall promptly notify each political subdivision which contains an area on the board's inventory of preferred areas for processing facilities. The chairperson shall also publish notice of the application in a newspaper of statewide distribution. The notice must provide that comments on the application may be submitted to the board within 30 days of the date the application was accepted.

I. Initial consideration. The board shall initially consider an application not less than 30 nor more than 60 days after its acceptance.

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PROPOSED RULES

6 MCAR § 8.505 Board decision.

A. Reasons for disapproval. The board shall grant clearance to an applicant unless it determines that:

1. the applicant's development plan is not sufficient to adequately operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state;
2. the applicant or its anticipated operating staff lacks the technical competence necessary to adequately operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state; or
3. the nature of past violations of state or federal environmental statutes or regulations and the applicant's response to these violations indicate an applicant could not be reasonably expected to operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state.

B. Written decision. The board shall set forth in writing the basis for its decision.

C. Appeals. If the board denies clearance, the applicant may request a contested case hearing within 21 calendar days of the board's decision. The board shall order a contested case hearing under Minnesota Statutes, chapter 14 and 9 MCAR §§ 2.201-2.299 if it receives a request. Following a review of the record of the hearing, the board shall make a final decision granting or denying clearance.

6 MCAR § 8.506 Notice of final decision.

Notice of the board's final decision granting or denying clearance shall be sent to political subdivisions which contain areas included on the board's inventory of preferred areas for processing facilities and to the applicant.

6 MCAR § 8.507 Expiration of clearance.

Clearance of an applicant expires 18 months after it is granted by the board if the applicant has not formally requested a pollution control agency permit during that period. An applicant whose clearance has expired may apply for clearance again without penalty or prejudice.

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 Energy, Planning and Development Energy Division

Notice of Continuation of Temporary Rules Amending the Minnesota Energy Conservation Service Program

Notice is hereby given that the Energy Division of the Department of Energy, Planning and Development is continuing the Adopted Temporary Rule Governing the Minnesota Energy Conservation Service Program. The continuation shall not be effective until this same notice has been mailed to all persons registered with the department to receive notice of any rule makings. These temporary rules shall be effective until April 22, 1983 or until permanent rules are adopted, whichever occurs first.

The adopted Temporary Rule was published at 6 S.R. 1934, on May 24, 1982. The rules in their entirety were published at 6 S.R. 1575-1576 on March 15, 1982.

January 17, 1983

Robert G. Renner, Jr., Commissioner
Department of Energy, Planning and Development

Department of Natural Resources

Adopted Amendments to Rules Governing Boat and Water Safety (6 MCAR § 1.0200)

The rule proposed and published at *State Register*, Volume 7, Number 21, pages 790-791, November 22, 1982 (7 S.R. 790) is adopted as proposed.

Department of Public Safety Driver and Vehicle Service Division

Adopted Rules Governing Drivers License and Motor Vehicle Records, Name of Applicant

The rules proposed and published at *State Register*, Volume 7, Number 2, pages 52-54, July 12, 1982 (7 S.R. 52) are adopted with the following modifications:

11 MCAR § 1.6106 Variances.

A. Commissioner may grant. The commissioner of Public Safety may grant variances from 11 MCAR §§ ~~1.6101-1.6105~~ § 1.6104.

B. Application for variance. If a person ~~questions or disagrees with the provisions of 11 MCAR §§ 1.6101-1.6105 as applied to him or her~~ is unable to comply with the provisions and requirements of 11 MCAR § 1.6104, he or she may make written application to the Commissioner of Public Safety or his designee for a variance ~~from one or more of the provisions of 11 MCAR §§ 1.6101-1.6105.~~

C. Documentation ~~and review~~. A person applying for a variance must submit written documentation of the reasons why a variance should be granted, including the reasons the required documents are not available. The applicant must provide additional information regarding his or her name and identity, such as names of relatives, date and place of birth, place of residence, social security number, military service information and any arrest information, to aid the commissioner in verifying the applicant's identity.

D. Review. The Commissioner of Public Safety or his designee shall review the request for the variance, ~~and~~ In making a decision to grant or deny the variance, the commissioner or his designee shall consider the following:

1. the availability of the required documents;
2. the degree of hardship placed on the applicant;
3. the effect of granting the variance on the public;
4. the effect of granting the variance on the integrity of the record system; and
5. the trustworthiness of the information supplied by the applicant regarding his or her name and identity.

E. Conditions for granting. The commissioner shall grant the variance if all of the following conditions are present:

1. the documents required by 11 MCAR § 1.6104 are either not reasonably available or do not exist;
2. compliance with 11 MCAR § 1.6104 would cause an undue hardship for the applicant;
3. granting the variance will have no adverse effect on the public;
4. granting the variance will not jeopardize the integrity of the record system; and
5. the applicant has established his name and identity by trustworthy evidence and documentation.

F. Decision. The Commissioner of Public Safety or his designee shall grant or deny the request for the variance within 30 days of receipt of the request. The person shall be notified of the decision by mail within the 30-day period.

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.

TAX COURT

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

State of Minnesota
County of Polk

Tax Court
Regular Division

James R. and Carol Dale,
Appellants,

In the Matter of the Appeal from the Commissioner's
Order dated March 13, 1981, relating to the Appellants'
income tax liability for the years 1977 and 1978.

vs.

Commissioner of Revenue,
Appellee.

Docket No. 3292
Order dated January 14, 1983

The above entitled matter came on for trial at the Polk County Courthouse, Crookston, Minnesota, on July 27, 1982, before the Honorable John Knapp, Chief Judge of the Minnesota Tax Court.

Jerome J. Mack, Esq., appeared for the Appellants, and Paul R. Kempainen, Special Assistant Attorney General, appeared for Appellee.

The main issue is whether or not the Appellants are entitled to take a business expense deduction for amounts allegedly paid to their 4 year old and 8 year old sons as compensation for farm labor.

From the files and records herein and from the evidence adduced at trial, and being fully advised of the premises, the Court now makes the following:

Findings of Fact

1. The Appellants herein, James R. and Carol Dale, were cash-basis, calendar year taxpayers residing on Route 1, Fertile, Minnesota, during the years at issue herein: 1977 and 1978.

2. Appellant James Dale's main business was owning and operating J. R. Dale Farm Supplies (a fertilizer, seed and machinery store) in Fertile, Minnesota. However, in 1976 the Appellants bought a 400 acre farm near Fertile and, moving to the farm, commenced a second business of farming. The farm was chiefly for raising cattle and horses.

3. At issue in this case is the allowability of certain claimed farm labor expenses claimed as deductions on Appellants' Schedule F (Farm Income and Expenses) for the years in question, allegedly paid to their minor sons in the following amounts for work done on the farm:

	<u>1977</u>	<u>1978</u>
David Dale	\$2,750.00	\$2,250.00
James Dale	<u>\$2,750.00</u>	<u>\$2,250.00</u>
Totals	\$5,500.00	\$4,500.00

4. The Appellants' son David was only eight (8) years old during the year 1977. The other son James was born on September 1, 1972, and thus was only four (4) years old during the first eight months of 1977.

5. The amounts allegedly paid as wages to the Appellants' sons were in fact one lump sum check written by the Appellant James R. Dale to each of his sons on December 30th of each calendar year. Each of these checks were then endorsed by the sons and given back to their father, who deposited the checks back into his own bank account.

6. The Appellant James R. Dale testified that he did not make any attempt to escrow or otherwise separately account for the monies thus deposited. Instead he used the money for his own personal and business expenses. The Appellant's testimony characterized these monies as loans from his sons to himself under an alleged written agreement calling for eventual repayment to the sons with interest. However, no written evidence of such a loan agreement has been offered into evidence, despite a specific request from the Court to do so.

7. On Appellant's original 1977 Income Tax Return they did not claim the wages to their sons as a farm labor expense, but instead put in a figure of only \$649.75 on line 29, Schedule F. It was only after Appellants were audited by the I.R.S. for 1977 (an audit which increased their income by adding certain rental receipts) that Appellants filed an amended 1977 Income Tax Return claiming the wages allegedly paid to their sons as farm labor expense.

8. The Appellants' 1978 Income Tax Return was filed on the same date as their amended 1977 return. Both returns were

received by the Appellee on July 23, 1979. The Schedule F on that 1978 return also claimed a farm labor expense deduction of \$4,500.00.

9. Appellants claim that the I.R.S. has audited them and allowed the farm labor expenses at issue herein. However, no documentation of such an audit was ever presented to substantiate that claim, despite a specific request from the Court. Documentation for an audit of other years was submitted but not for the years in issue.

10. Upon audit the Commissioner of Revenue disallowed the amounts claimed with respect to the Appellants' sons as farm labor expense deductions. An Order of additional tax was issued on March 13, 1981, assessing additional taxes and interest for 1977 and 1978 in the amount of \$1,589.60.

11. An additional issue in this case is the allowability of a \$42.00 depreciation deduction claimed in 1977 for a snowmobile owned by the Appellants. The commissioner disallowed this deduction also. The Appellant James R. Dale testified that he used this snowmobile for mending fences and feeding cattle, but he also testified that he used the snowmobile for his own personal pleasure and that of his family.

Conclusions of Law

1. In substance, Appellants never actually paid any wages to their sons for the years 1977 and 1978, but instead merely went through the form of making out lump sum checks to their sons at the end of each tax year, which checks were then immediately deposited back into the Appellants' bank account and used for Appellants' personal and business expenses.

2. The commissioner's disallowance of the claimed farm labor expense deductions in the years 1977 and 1978 was correct and proper.

3. The snowmobile depreciation was not a business expense because the Appellants used the snowmobile for their own personal pleasure. The commissioner's disallowance of the depreciation was therefore correct and proper.

4. The Order of the Commissioner at issue herein dated March 13, 1981, is hereby affirmed in all respects.

LET JUDGMENT BE ENTERED ACCORDINGLY.

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

Memorandum

The main issue in this case is whether the Appellants, who are cash-basis, calendar year taxpayers, are entitled to take a business expense deduction for amounts allegedly paid to their 4 and 8 year old sons as compensation for farm labor, when in fact the amounts paid ended up back in the Appellants' possession for their own use.

The applicable statute is Minn. Stat. § 290.09, subd. 2(a)(1), which reads as follows:

Trade or business expenses; expenses for production of income. (a) In General. There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including

(1) A reasonable allowance for salaries or other compensation for personal services actually rendered;

Under the above statute it is clear that the compensation must not only be "reasonable" (i.e., that the value of the personal services rendered be equal to the amount claimed), but also that payment of the compensation must in fact be made.

In the present case there is serious doubt about the reasonableness of the amounts claimed, especially with regard to the compensation allegedly paid to the Appellants' youngest son: James. It is incredible to believe that a young boy who began the first year in question (1977) at the tender age of 4 (James was born on September 1, 1972) could perform hard farm labor valued at \$2,750.00. Moreover, the amount claimed to have been paid to James was exactly the same as the amount claimed to have been paid to the elder (8 year old) son, and *both* amounts were paid as lump sums on the second-to-last day of the tax year.

These facts indicate strongly that the amounts claimed were far less related to the "reasonable" value of the services allegedly rendered by a 4 and 8 year old boy respectively, than they were determined by the year-end tax planning needs of the boys' parents, who are the Appellants herein. The credibility of the Appellants' claim to being reasonable is lessened further by the fact that they did not claim the boys' compensation at all on their original 1977 return. It was only after the Appellants had been audited by the I.R.S. (an audit with increased their 1977 income) that they filed an amended 1977 return claiming the amounts allegedly paid to their sons as a farm labor expense.

In addition to the question of reasonableness, however, is the fact that the Appellants never really paid anything to their sons at all. In a case decided under the federal deduction statute (which is identical to Minn. Stat. Sec. 290.09, subd. 2(a)(1)), the Federal Tax Court established the already obvious principle that no deduction can be claimed unless compensation is actually paid. In *Samuel Crowther*, Para. 37,364 P-H Memo BTA (Dec. 14, 1937), affirmed without opin. 112 F.2d 167 (2d Cir., 1940), the Court said:

TAX COURT

It is essential to find that the petitioner made the alleged payments to his wife either actually or constructively. Such a fact is a prerequisite to the allowance of the deduction.

In the present case there is evidence that the Appellants wrote lump sum checks to each of their sons at the end of each tax year. But the evidence also unequivocally shows that these checks were endorsed directly back to the Appellant-father, who then deposited them in his own bank account and used the money for his own personal and business expenses. No attempt was made to escrow or separately account for the monies, and Appellant James R. Dale's claim that he had a written loan agreement with his sons has not been substantiated by anything.

It is well settled that in tax questions the courts are free to look to the substance, and not just the form, of a transaction. *Midwest Federal Savings and Loan of Mpls. v. Commissioner of Revenue*, 259 N.W. 2d 596 (Minn., 1977). In this case it is clear that, in substance, Appellants never actually paid anything to their sons at all. They simply went through the form of writing checks to their very minor children, and then took the money back and continued to treat it as if it were their own. See, *Tinkoff v. Commissioner of Internal Revenue*, 120 F. 2d 564 (7th Cir., 1941), for a case where the Seventh Circuit disallowed a claimed compensation expense deduction for checks made payable to the taxpayer's wife for services allegedly rendered, but in which the checks were never actually cashed by the wife.

Because in substance there was no payment of money to the sons, there can be no farm labor expense deduction allowed. Therefore, the commissioner's assessment order should be affirmed in all respects.

J.K.

SUPREME COURT

Decisions Filed Friday, January 21, 1983

81-1382 *State of Minnesota v. Mark Alan Stutelberg, Appellant. Hennepin County.*

Defendant received a fair trial, and evidence was sufficient to support jury's verdict finding him guilty of third-degree murder.

Affirmed. Amdahl, C. J.

82-1009 *State of Minnesota v. Marvin Lee Jones, Appellant. Ramsey County.*

Presence of aggravating circumstances justified limited sentencing departure.

Affirmed. Amdahl, C. J.

82-1051 *State of Minnesota, Appellant, v. Daniel Jerome Clemmer. Dakota County.*

District court was justified in staying execution of sentence of criminal defendant.

Affirmed. Amdahl, C. J.

82-705 *The Housing and Redevelopment Authority for Lincoln County, Minnesota, petitioner, Appellant, v. Al Jorgensen, as Zoning Administrator for the City of Tyler, etc. Lincoln County.*

A cooperation agreement entered into between a city and a housing and redevelopment authority required the city to issue conditional use permits needed for development of a housing project.

Reversed. Todd, J.

82-35 *State of Minnesota v. Wayne Allen Stufflebean, Appellant. Kandiyohi County.*

Defendant was not denied a fair and impartial jury by the trial judge's refusal to dismiss two members of the jury panel prior to voir dire.

Defendant was not denied a fair trial by prosecutorial misconduct occurring during the state's closing argument.

The trial judge did not err in denying a motion for a new trial or judgment NOV based on sufficiency of the evidence and alleged perjury and conspiracy committed by state witnesses.

Defendant is entitled to vacation of his attempted third-degree criminal sexual conduct conviction pursuant to Minn. Stat. § 609.04 (1980).

Affirmed as modified. Yetka, J.

C9-82-34 James Swenson, et al., Appellants, v. State of Minnesota, Department of Public Welfare, Kittson County Welfare Board. Kittson County.

The County Board is required to budget funds received from federal, state and local sources for social services within existing statutes and DPW regulations.

Appropriations received by a county for social services are available resources under DPW Rule 185A.2 and Minn. Stat. § 252.24, subd. 1 (1982) for services mandated under DPW Rule 160C.2.

Provision of Developmental Achievement Center (DAC) services at some level for mentally retarded persons determined to need them is mandated by federal law under the consent decree in *Welsch v. Noot*.

The County Board violated DPW Rule 160 by reducing the level of mandatory services from that recommended by the individual service plans required by that rule.

The Department of Public Welfare must comply with its own regulations or amend those regulations in accordance with statutory rulemaking procedures.

Reversed and remanded. Wahl, J.

82-563 Roger A. Johnson, Appellant, v. Blue Cross and Blue Shield of Minnesota. Hennepin County.

The trial court's finding of no implied-in-fact contract for a retainer by the health carrier of the employee's attorney to collect on the health carrier's right of reimbursement of medical expenses in a workers' compensation proceeding is sustained by the evidence.

An attorney who successfully represents an employee client in a workers' compensation proceeding and, in so doing, establishes the health carrier's right to reimbursement for medical expenses, is not entitled to a share of the reimbursement as attorney fees under an implied-in-law theory, neither for unjust enrichment nor for an attorney's statutory lien.

Affirmed. Simonett, J.

C-81-209, CX-82-818 Chris M. Miller, petitioner, Appellant, v. State of Minnesota. Hennepin County.

Confession obtained following arrest was not the suppressible product of the arrest, accordingly, even it can be said that the arrest was illegal, trial court did not err in admitting the confession.

Affirmed. Kelley, J.

C4-82-751 Lowell E. Pauli, Relator, v. Pneumatic Systems, Inc., et al., Twin City Fire Insurance Co., Insurer. Workers' Compensation Court of Appeals.

An Oregon resident, an employee of an Oregon corporation, who was injured in Minnesota in the course of his employment and subsequently filed a workers' compensation claim in Oregon and did not dismiss that claim failed to forego his Oregon claim, and, therefore, was not covered by the Minnesota Workers' Compensation Act pursuant to Minn. Stat. 176.041, subd. 4 (1980).

Affirmed. Kelley, J. Dissenting, Todd, J., Yetka, J., Scott, J., and Wahl, J.

82-649 State of Minnesota v. James W. Whiteside, Appellant. Hennepin County.

Evidence supported defendant's conviction of criminal sexual conduct in the first degree, and there is no merit to defendant's contentions that the trial court prejudicially erred in an evidentiary ruling and that his trial counsel failed to represent him adequately.

Affirmed. Coyne, 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.

Minnesota Housing Finance Agency

Notice of Request for Proposals Concerning Multi-family Rental Housing Program

The Minnesota Housing Finance Agency (agency) is interested in developing new approaches to providing permanent and construction financing for multi-family rental housing. The agency is requesting proposals for the new construction or substantial rehabilitation of such developments under the following three programs:

PARTIAL SECTION 8 HOUSING PROGRAM (maximum 300 units)

Based on Section 8 funds currently reserved with the U.S. Department of Housing and Urban Development (HUD) the agency will consider financing proposals with 20% of the units subsidized through the Section 8 housing program (estimated 60 Section 8 units, 300 total housing units).

Location: Counties—Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington
Cities—Rochester, St. Cloud, Waite Park, Sauk Rapids

Sponsor: Limited Dividend Developers

Tenant Requirements:

- 20% of the units rented to low and moderate income persons, through the Section 8 Program.
- 80% of the units rented to market rate, low, and moderate income tenants within MHFA income limits.
- Developer must demonstrate market.

Financing Conditions:

- 30-year fixed rate permanent financing; rate depends on sale of bonds, currently assume a rate of 11% plus ½% annual fee.
- Construction financing available.
- Underwriting terms and conditions similar to previously Agency-financed Section 8 developments.
- Due to federal regulations developments must remain rental for 20 years.
- Agency is exploring financing options to enhance financial feasibility.

MODERATE INCOME ELDERLY HOUSING PROGRAM—NON-PROFIT (maximum 400 units)

Based on a demonstrated need for market rate elderly housing, the agency will consider housing proposals for elderly persons capable of independent living. The apartment units must contain full kitchen facilities, and the provision of social, health, and nutrition services is strongly encouraged, provided they are not a condition of occupancy. 75% of the tenants must have incomes within MHFA income limits.

Location: Statewide, subject to demonstration of market

Sponsor: Non-profit corporations who are exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, with the financial capability and experience to develop and manage a housing development.

Financing Conditions:

- 30-year fixed rate permanent financing; rate depends on sale of bonds, currently assume a rate of 11% plus ½% annual fee.
- Construction financing available.
- Entrance fees, founder's fees, and annuities allowed subject to Agency approval.
- Maximum 90% loan-to-value.

MODERATE INCOME MARKET RATE HOUSING PROGRAM (350 units)

The agency is currently exploring several options for the financing of moderate income rental housing and is requesting that developers with housing proposals contact the agency to discuss their ideas for innovative financing. Those proposals which

appear financially feasible and best meet the agency's housing goals may be selected for further review and/or mortgage processing.

Location: Statewide, subject to demonstration of market

Sponsor: Limited Dividend or Non-Profit Developers

Applications for all three programs, including those mailed to the agency, must be received by the agency no later than 3:00 p.m., March 31, 1983. Applications received after this time will not be considered. All applications mailed to the agency shall be by certified mail (return receipt requested). Anyone delivering an application to the agency must request a receipt.

A Developer's Packet containing application materials is available for each of the three programs. PLEASE specify which program when requesting a packet from the Minnesota Housing Finance Agency, Suite 200, 333 Sibley Street, St. Paul, Minnesota, 55101, or when calling (612) 297-3294.

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 Aitkin County

In compliance with Minnesota Statutes § 94.09, et seq, the Commissioner of Administration offers for sale by sealed bid an unimproved one acre parcel of wooded land in Nordland Township of Aitkin County. The parcel was originally purchased as a site for a forestry tower, but the tower was never built. The parcel is landlocked, that is, it cannot be reached from a public road without crossing lands owned by others. Nearest public road is 1/4 mile.

The parcel is described legally as follows:

Beginning at the Quarter Corner between Section Thirty (30) and Nineteen (19), Township Forty-six (46), Range Twenty-six (26), thence West Two Hundred and Nine (209) feet, thence South Two Hundred and Nine (209) feet, thence East Two Hundred and Nine (209) feet, thence North Two Hundred and Nine (209) feet to the point of beginning. Said tract to contain one acre more or less.

Arrangements for viewing the parcel may be made by contacting

Les Blakesley, District Forester
318 First Street N.W.
Aitkin, Minnesota
Telephone (218) 927-2414

The bids will be opened and read aloud publicly at Room G-22 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155 at 2:30 p.m. on February 10, 1983.

Bidders shall be required to submit a Cashier's Check, or a Money Order with their bids in an amount not less than 10% of the bid. The remittance of unsuccessful bidders will be returned. The remittance by the successful bidder will be used by the state as a down payment. The balance remaining after the down payment shall be due on or before May 12, 1983. The State of Minnesota shall pay all taxes and assessments due and payable in 1982 and all prior years.

For details and bid forms contact:

Real Estate Management
50 Sherburne Avenue
St. Paul, Minnesota 55155
Telephone (612) 296-6674

OFFICIAL NOTICES

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 bid two parcels totaling about 36 acres. Formerly used as a forestry station by the DNR, the parcels are located about a mile east of Alborn and 25 miles northwest of Duluth on St. Louis County Road No. 47.

For purposes of disposition, the property has been divided into two tracts. The legal descriptions and brief physical descriptions of the two parcels are as follows:

TRACT A—In St. Louis County, Minnesota, that part of the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 30, Township 52 North, Range 17 West, lying north of St. Louis County Road No. 47, comprising 13.95 acres, more or less, subject to a lease for roadway purposes, which lease expires on October 31, 1983. Tract A is improved with a 1066± sq. ft. one-story, frame residence, a 4-stall frame garage, and a 20 × 60 storage shed. Appraised value and minimum acceptable bid is \$29,200. Bids in a lesser amount will not be accepted.

TRACT B—In St. Louis County, Minnesota, that part of the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 30, Township 52 North, Range 17 West, lying south of St. Louis County Road No. 47, comprising 22.35 acres, more or less. The land is wooded and unimproved. Appraised value and minimum acceptable bid is \$6000. Bids in a lesser amount will not be accepted.

The property will be made available for inspection by appointment only. Arrangements for showing may be made by contacting:

John Dowd, District Forester
Cott, Minnesota, telephone (218) 482-3219, or

Pete Hengel
Regional Field Services Supervisor
Grand Rapids, Minnesota, telephone (218) 327-1706

The bids will be opened and read aloud publicly at Room G-22 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155 on February 9, 1983, at 2:30 p.m.

Bidders shall be required to submit a cashier's check with their bids in an amount not less than 10% of the bid. The checks of unsuccessful bidders will be returned.

The successful bidder will have the choice of making payment of the balance remaining after the down payment by one of the following two methods:

1. Payment in full of the balance no later than June 1, 1983; or
2. Payment of the remaining balance in not less than equal annual installments for not to exceed 5 years, with principal and interest payable annually in advance at the rate of 8% 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.

For details and bid forms contact:

Real Estate Management Division
Department of Administration
Room G-22
50 Sherburne Avenue
St. Paul, Minnesota 55155
Telephone: (612) 296-6674

Department of Agriculture Soil and Water Conservation Board

Notice of Meeting

The Minnesota Soil and Water Conservation Board has changed the date of their regular monthly meeting from February 8, 1983 to February 15, 1983. The board will resume their regular schedule on March 8, 1983.

Department of Commerce Banking Division

Bulletin No. 2703: Maximum Lawful Rate of Interest for Mortgages and Contracts for Deed for the Month of February 1983

Notice is hereby given that pursuant to Section 47.20, subd. 4a, Minnesota Statutes 1982, the maximum lawful rate of interest for conventional home mortgages for the month of February 1983 is thirteen and three-quarters (13.75) percentage points. Further, pursuant to Section 47.20, Minnesota Statutes, the maximum lawful rate of interest for contracts for deed for the month of February 1983 is thirteen and three-quarters (13.75) percentage points.

It is important to note that this maximum lawful rate does not apply to all real estate loans and contracts for deed. Under Minnesota's interest rate moratorium, which is identical to the Federal Usury Preemption, in most instances any rate may be charged on real estate mortgages and contracts for deed that constitute first liens.

This is the same rate as set for January 1983 and is based on the Federal National Mortgage Association (FNMA) December 20, 1982, auction results and an average yield for conventional mortgage commitments of 13.697%. No offers were accepted by FNMA at the January 17, 1983, auction. In this case, Section 47.20, Subd. 4a, Minnesota Statutes, provides that the previous month's rate continues in effect. The next FNMA auction is scheduled for February 28, 1983, and will be the basis for the March 1983 maximum rate. Current rates regarding the monthly publication are available by telephoning the Banking Division 24-hour information number (612) 297-2751.

January 19, 1983

John D. Chisholm
Commissioner of Banks

Ethical Practices Board

Advisory Opinion #83 Regarding Campaign Finance: Contributors to Political Party Committee

SUMMARY

83. A political party committee of a major or a minor political party shall disclose contributors whose contributions to the committee in aggregate under Minn. Stat. § 10A.20, subd. 3(b) exceed \$50 (legislative offices) or \$100 (statewide offices only) in a calendar year regardless of whether the committee makes contributions to any candidates.

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

Department of Finance

Notice of Maximum Interest Rate on Municipal Obligations for February 1983

Pursuant to Laws of Minnesota 1982, Chapter 523, Commissioner of Finance, Gordon M. Donhowe, announced today that the maximum interest rate for municipal obligations in the month of February will be eleven (11) percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to twelve (12) percent per annum.

The maximum interest rate for obligations authorized by resolution prior to April 1, 1982 shall be twelve (12) percent per annum.

Metropolitan Council

Public Meeting Concerning Ramsey and Washington Counties' Waste-to-Energy, Resource Recovery Project

The Metropolitan Council will hold a public meeting Feb. 10 on a proposed waste-to-energy resource recovery project for Ramsey and Washington Counties.

OFFICIAL NOTICES

The meeting will be from 7 to 10 p.m. at Tartan High School, 828 Greenway Av. N., Oakdale.

The project, an estimated \$55 million mass-burn incinerator, would be built in Lake Elmo, Washington County. It would burn about 600 tons of municipal waste daily and produce steam for sale to 3M Company in Maplewood—and other nearby customers if the facility is expanded. Construction could begin in 1984.

The meeting will provide an opportunity to discuss an environmental assessment worksheet (EAW) about the project and the scope for an environmental impact statement (EIS) that will be prepared by summer. Minnesota Environmental Quality Board rules require the Council to conduct an EIS on incinerators that will process 500 tons or more of waste daily.

Persons who wish to speak at the hearing or submit written testimony should call the Council at 291-6421. Copies of the EAW may be obtained free by calling 291-6464.

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 February 22, 1983.

ADVISORY COUNCIL FOR THE MINNESOTA SCHOOL FOR THE DEAF has 1 vacancy open for a professional member. The council advises the Board of Education on the management of the school for the deaf. Members are appointed by the Board of Education, represent various geographic regions of the state and include parents or guardians of hearing impaired children, 2 representatives of groups representing hearing impaired individuals, and a staff person from the school for the deaf. Monthly meetings are in the Twin Cities or Faribault; members receive \$35 per diem plus expenses. For specific information contact Carl Johnson, Advisory Council for the Minnesota School for the Deaf, P.O. Box 308, Faribault 55021; (507) 332-3363.

ADVISORY COUNCIL FOR THE MINNESOTA BRAILLE AND SIGHT-SAVING SCHOOL has 1 vacancy open for a consumer/parent member. The council advises the Board of Education on the management of the Braille and Sight-Saving School in Faribault. Members are appointed by the Board of Education, represent various geographic regions of the state and include parents or guardians of visually impaired children, 2 representatives from groups representing visually impaired individuals, and a staff person from the school. Monthly meetings are in the Twin Cities or Faribault; members receive \$35 per diem plus expenses. For specific information contact Carl Johnson, Advisory Council for the Minnesota Braille and Sight-Saving School, P.O. Box 308, Faribault 55021; (507) 332-3363.

BOARD OF ACCOUNTANCY has 2 vacancies open immediately. One for a public member and 1 for a licensed public accountant. The board examines, licenses and regulates certified public accountants and public accountants. Members are appointed by the Governor; members must file with EPB. Four meetings a year are held plus any emergency meetings necessary. Members receive \$35 per diem. For specific information contact the Board of Accountancy, Dept. of Commerce, 590 Metro Square Bldg., St. Paul 55101; (612) 296-7937.

SOIL AND WATER CONSERVATION BOARD has 1 vacancy open for a supervisor of soil and water conservation district (west central Minnesota). The board coordinates programs and activities of 92 state soil and water conservation districts; administers funds for carrying out soil erosion control and water quality projects; develops, writes rules and regulations for and administers statewide soil erosion control programs; conducts leadership development training for district supervisors and their employees; and administers flood control projects in southwestern Minnesota. Members are appointed by the Governor and confirmed by the Senate. Members must file with EPB. Monthly meetings are held. Members receive \$35 per diem plus expenses. For specific information contact the Soil and Water Conservation Board, Dept. of Agriculture, 90 West Plato Blvd., St. Paul 55107; (612) 296-3767.

MINNESOTA SENTENCING GUIDELINES COMMISSION has 1 vacancy open for a new member—a probation officer or parole officer effective January 24, 1983. The function of the commission is to reduce disparity in sentencing practices throughout the state in terms of length of imprisonment as well as imprisonment versus probation and local incarceration. The commission promulgated and submitted to the legislature on January 1, 1980 presumptive guidelines for trial court judges. The guidelines are effective for offenders who committed offenses on or after May 1, 1980. The commission is required to monitor and modify the guidelines once operational and evaluate their effectiveness. In addition, the commission is required to conduct ongoing research, make periodic recommendations to the legislature regarding improvement of sentencing, criminal code, or criminal procedures. Public members are appointed by the Governor and receive \$50 per diem. All commission members will be reimbursed for travel expenses. For specific information contact the Minnesota Sentencing Guidelines Commission, 284 Metro Square Bldg., St. Paul 55101; (612) 296-0144.

CABLE COMMUNICATIONS BOARD has 1 vacancy open for a public member. The board establishes rules and standards for cable communications in the state; approves service territories; provides consultant services; and represents the state before the federal communication commission. Members are appointed by the Governor and confirmed by the Senate. Members must file with EPB and may not be employed by or have financial interest in any cable communications company or subsidiaries. No more than 4 members may be of the same political party. Monthly meetings are held. Members receive \$35 per diem plus expenses. For specific information contact the Cable Communications Board, 500 Rice Street, St. Paul 55101; (612) 296-2545.

APPRENTICESHIP ADVISORY COUNCIL has 1 vacancy open for an employee member. The council proposes occupational classifications and minimum standards for apprenticeship programs and agreements; and advises the Commissioner of Labor and Industry. Members are appointed by the Commissioner. Quarterly meetings are held. Members receive \$35 per diem plus expenses. For specific information contact the Apprenticeship Advisory Council, 561 Space Center Bldg., 444 Lafayette Road, St. Paul 55101; (612) 296-2371.

Department of Transportation

Proposed Amendment of Rules Governing Operations of Motor Carriers and Motor Carrier Tariff, Accounting and Insurance Rules

Notice of Intent to Solicit Outside Opinion

Notice is hereby given that the Minnesota Department of Transportation is seeking information or opinions from sources outside of the department in preparing to amend rules governing the operation of motor carriers including their facilities, accounts, service, safety of operations and equipment, maximum hours of service of drivers, safety devices, insurance, recordkeeping, form and manner of filing rates and tariffs and the transportation of hazardous materials by any person. The adoption or amendment of these rules is authorized by Minnesota Statutes §§ 221.031, subd. 1; 221.151, subds. 1 and 2; 221.296, subd. 2; which require the department to adopt the rules described above. The rules now in effect were originally adopted by the Public Service Commission and are cited as PSC 1 through 7 and PSC 40 through 48.

The Minnesota Department of Transportation 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:

Betsy Parker
Motor Carrier Safety and Compliance Office
Minnesota Department of Transportation
404 Transportation Building
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-7108 and in person at the above address.

All statements of information and comment shall be accepted until March 31, 1983. Any written material received by the Department of Transportation shall become part of the record in the event that rules are amended or adopted.

Dated this 20th day of January 1983.

Richard P. Braun
Commissioner of Transportation

STATE OF MINNESOTA
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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.

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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.

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