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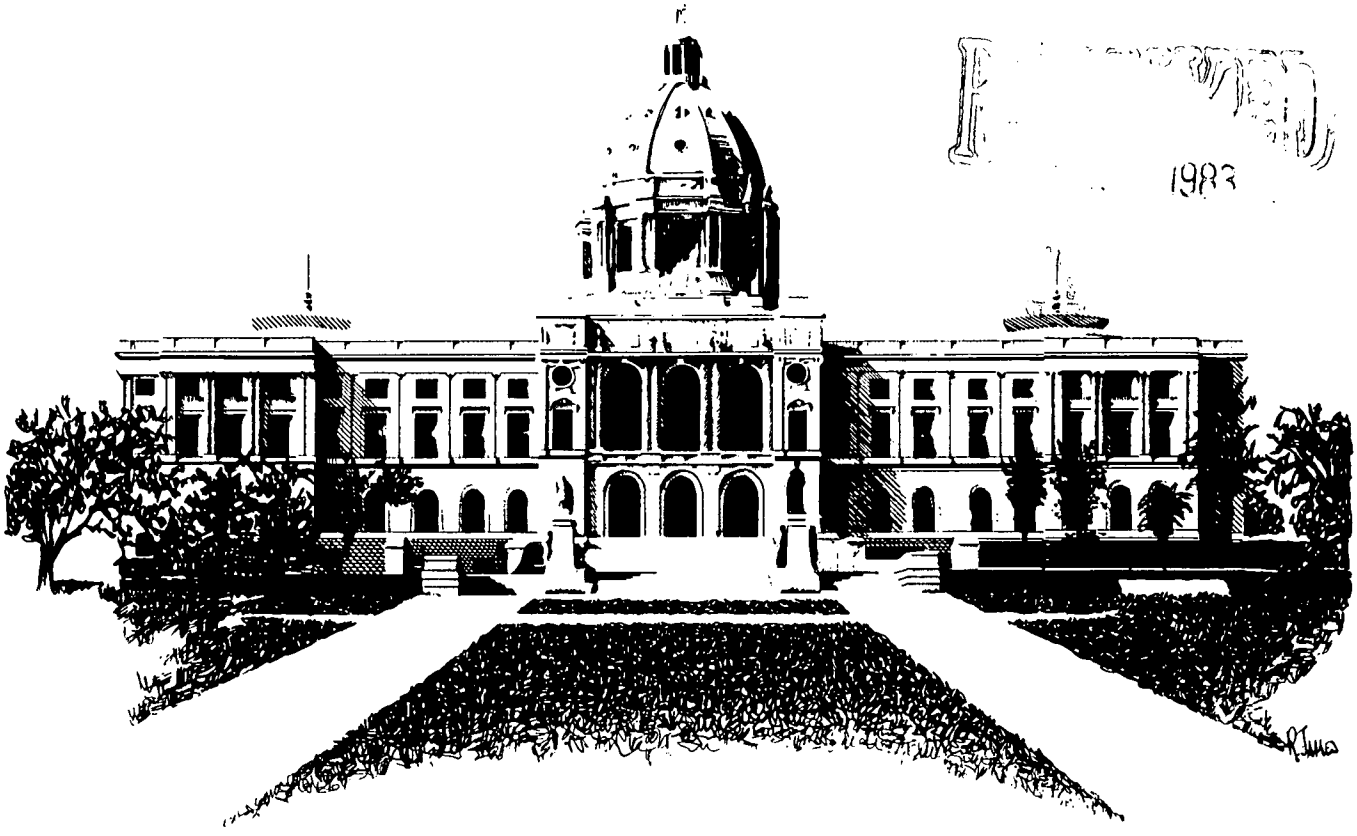
STATE REGISTER

STATE OF MINNESOTA



VOLUME 7, NUMBER 42

April 18, 1983

Pages 1501-1540

STATE REGISTER

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		
43	Monday Apr 11	Monday Apr 18	Monday Apr 25
44	Monday Apr 18	Monday Apr 25	Monday May 2
45	Monday Apr 25	Monday May 2	Monday May 9
46	Monday May 2	Monday May 9	Monday May 16

*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.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 15.051. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at $130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at $3.25 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

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*.

Cover graphic: *Minnesota State Capitol*, ink drawing by Ric James.

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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:

Issues 1-13, inclusive
Issues 14-25, inclusive
Issue 26, cumulative for 1-26
Issue 27-38, inclusive
Issue 39, cumulative for 1-39
Issues 40-51, inclusive
Issue 52, cumulative for 1-52

The listings are arranged in the same order as the table of contents of the *MCAR 1982 Reprint*.

MCAR AMENDMENTS AND ADDITIONS

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.

State Board of Education
Department of Education
Instruction Division

Proposed Rules Governing Automobile and Motorcycle Driver Education Programs (EDU 143-EDU 150)

Notice of Hearing

A public hearing concerning the proposed rules will be held at Capitol Square Building, First Floor, Conference Rooms A & B, 550 Cedar Street, St. Paul, MN 55101 on May 21, 1983, commencing at 10:00 a.m. and continuing until all interested persons have had an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Richard C. Luis, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, MN 55415, telephone (612) 341-7610 either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 14.01 to 14.56, and by 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

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

The agency intends to present only a short summary of the statement of need and reasonableness at the hearing but will answer questions raised by interested persons. You are therefore urged to review the statement of need and reasonableness before the hearing. Additional copies will be available at the hearing.

These rules establish the minimum criteria the State Board of Education and Commissioner will use in determining whether the Automobile Driver Education Program and the Motorcycle Driver Education Program, offered through public schools, should be approved or denied.

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.

The board's statutory authority to promulgate the proposed rules is provided by Minn. Stat. §§ 121.11, subd. 7a, and 169.974, subd. 2 (1982).

The board estimates that there will be no cost to local bodies in the state to implement the rules for the two years immediately following its adoption within the meaning of Minn. Stat. § 14.11 (1982).

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to Joseph E. Meyerring, Specialist, Traffic Safety Education, 685 Capital Square Building, 550 Cedar Street, St. Paul, MN 55101, telephone (612) 296-1501. Additional copies will be available at the door on the date of the hearing. If you have any questions on the content of the proposed rules, contact Joseph E. Meyerring.

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

Minn. Stat. Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1982) 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 one month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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

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

April 5, 1983

John J. Feda, Secretary
State Board of Education

Rules as Proposed

Chapter Eight: Health and Safety
Education Instruction and Training
Minimum Standards for Elementary and Secondary Schools

Rules as Proposed (all new material)

EDU 143 Automobile driver education programs.

A school district offering automobile driver education programs, directly or indirectly, shall comply with the requirements of EDU 144 to EDU 146.

EDU 144 Instructional requirements for automobile driver education.

A. Classroom curriculum. A written classroom curriculum guide must be available to and used by each instructor conducting classroom instruction. The curriculum must include at least the following opportunities for students:

1. to analyze and assess several decision-making models and factors influencing highway-user decisions;
2. to analyze and simulate making decisions about the effect of alcohol and other drugs on behavior and driving performance;
3. to analyze and practice making decisions about using occupant restraints;
4. to identify and analyze a variety of driving decisions about highway users and roadway characteristics;
5. to analyze and practice making decisions about a vehicle's speed under different driving conditions;
6. to know the content and purpose of motor vehicle and traffic laws and rules for safe driving performance;
7. to identify, analyze, and describe proper procedures for a variety of driving situations;
8. to gather information and practice making decisions about automobile ownership and maintenance;

9. to identify, analyze, and practice making decisions related to drivers' attitudes and emotions; and

10. to explore alternative ways to become better drivers and to improve the highway transportation system.

B. Laboratory curriculum. A written laboratory curriculum guide must be available to and used by each instructor conducting laboratory instruction. The curriculum must include at least the following:

1. orientation to the purpose, content, and procedures for laboratory instruction;

2. orientation to gauges and instruments, and preparing to move the vehicle;

3. basic skills in speed control and tracking on forward and backward paths;

4. orientation to driving and initial techniques in scanning for, recognizing, and responding to obstacles;

5. basic skills in parking, turning, backing, turning around, lane changing, crossing intersections, and passing;

6. reduced-risk city driving, highway driving, freeway driving, and interacting with other highway users;

7. strategies for perceiving and responding to adverse and special conditions and emergencies; and

8. formal evaluation, self-evaluation, and planning for future improvement.

C. Place for on-street instruction. All on-street instruction shall be conducted on a planned practice driving route. It shall not be on actual routes used for road tests for state driver licenses.

D. Classroom instruction. At least 30 hours of classroom instruction must be scheduled over no less than two weeks with no more than three clock hours per day.

E. Laboratory instruction. Laboratory instruction must include at least six clock hours of on-street instruction or the equivalent. The clock hours or the equivalent must be scheduled over no less than two weeks and not more than 18 weeks with no more than two clock hours per day.

1. If automobile-driving simulator instruction is provided and is not counted as classroom time, four clock hours of simulator instruction may be substituted for one clock hour of on-street instruction.

2. If off-street driving range instruction is provided, two clock hours of driving range instruction may be substituted for one clock hour of on-street instruction.

3. When simulator or driving range instruction is substituted for on-street instruction, the on-street instruction time may not be reduced to less than three clock hours. However, when both simulator and driving range instruction are substituted, on-street instruction time may not be reduced to less than two clock hours.

F. Sequence when simultaneous instruction. When both phases of the program are conducted during the same time period, at least five clock hours of classroom instruction must have been completed before beginning laboratory instruction. The laboratory instruction must be dispersed throughout the classroom instruction.

G. Sequence when successive instruction. Successful completion of classroom instruction is mandatory for enrollment in laboratory instruction, when the two phases of the program are conducted during separate time periods. The time period between the phases of instruction must not exceed six months.

H. Occupant restraints. Instructors must ensure that all vehicle occupants use restraints at all times during laboratory instruction.

I. Permit or driver's license. Instructors must ensure that a student is in actual possession of a valid Minnesota driver instruction permit or driver's license before giving on-street driving instruction.

J. Course credit. Driver education courses may carry credit toward graduation for students, whether offered directly or indirectly, as a separate course or part of another course. Credit for driver education must be granted under the same standards that credit is granted for satisfactory completion of other courses.

K. Program modification. A school district which does not provide the complete laboratory instruction may offer classroom instruction only after it has consulted with an approved on-street provider within the immediate area. The district must modify its program to minimize duplication of training and ensure coordination of classroom and laboratory instruction.

L. Authorized school official. A school district must identify an authorized school official to be responsible for certifying

satisfactory completion of the program. The official need not be licensed under 5 MCAR § 3.083 unless that person also is an instructor in the program.

1. When a student satisfactorily completes the driver education program, including both classroom and on-street instruction, the authorized school official must furnish the student a certificate of course completion.

2. When a student satisfactorily completes classroom instruction and intends to complete the program with another provider, the authorized school official must furnish the student a verification statement of completion of classroom instruction.

3. When a student under 16 years of age fails to continue or successfully complete the driver education course, including on-street instruction, the authorized school official must immediately notify the Department of Public Safety, Driver and Vehicle Services Division.

M. Annual report. A school district desiring approval for its automobile driver education program must submit an annual report to the Department of Education, on forms supplied by it, before conducting the course. The annual report must identify the authorized school official and all instructors who will be teaching students and each instructor's drivers license number.

EDU 145 Vehicle requirements for automobile driver education.

A. Safety standards. Each vehicle used for laboratory instruction for automobile driver education must comply with all federal and state motor vehicle safety standards for the model year of the vehicle.

B. Required equipment. Each vehicle used for on-street instruction must have the following equipment:

1. dual control brakes;

2. outside and rearview mirror for the driver's use and separate rearview mirror for the instructor's use;

3. sunvisors for both the driver and the front seat passenger;

4. windshield washers, wipers, and defroster; and

5. occupant restraints for each occupant of the vehicle.

C. Display of sign. Each vehicle used for on-street instruction must conspicuously display a sign on the rear which reads "Student Driver." The background and letters of the sign must be of contrasting colors. The lettering must be at least two but not more than five inches high. The sign must be removed when the vehicle is used for purposes other than driver education instruction.

D. Required maintenance. Each vehicle used for laboratory instruction must be maintained in safe operating condition through routine care and servicing.

E. Firearms, hazardous or toxic substances prohibited. No firearms, hazardous substances, or toxic substances may be transported in a driver education vehicle. For the purpose of this subpart, "firearms" has the definition given it in Minnesota Statutes, section 97.40, subdivision 34; "hazardous substances" and "toxic substances" have the definitions given them in Minnesota Statutes, section 24.33, clauses (d) and (e).

F. Insurance or self-insurance required. The district shall provide a plan of reparation security covering each vehicle used and complying with the provisions of the Minnesota No-Fault Automobile Insurance Act, Minnesota Statutes, sections 65B.41-65B.71. However, residual liability coverage and uninsured motorist coverage must be provided in the following amounts: not less than $100,000 because of bodily injury to or death of any one person in any one accident; not less than $300,000 because of bodily injury to or death of two or more persons in any one accident; and not less than $50,000 because of damage to or destruction of property of others in any one accident.

EDU 146 Instructor requirements for automobile driver education.

All instructors providing automobile driver education instruction must be appropriately licensed by the Board of Teaching.

EDU 147 Motorcycle driver education programs.

A school district offering motorcycle driver education programs, directly or indirectly, shall comply with the requirements of EDU 148 to EDU 150.

EDU 148 Instructional requirements for motorcycle driver education.

A. Classroom curriculum. A written classroom curriculum guide must be available to and used by each instructor conducting classroom instruction. The curriculum must include at least the following opportunities for students:

1. to become familiar with the purpose, content, and procedures for classroom instruction;

2. to learn the location and operation of motorcycle controls and indicators;

3. to identify, analyze, and practice making decisions about proper protective gear;

4. to identify and become familiar with the procedures for starting, riding, and stopping a motorcycle;
5. to learn procedures for turning, changing gears, and using both brakes to stop a motorcycle;
6. to identify basic riding strategies and prepare to ride safely in traffic;
7. to become familiar with the various methods used to minimize, separate, and compromise riding hazards;
8. to learn procedures for passing, group riding, and night riding techniques;
9. to prepare for handling unusual or emergency situations; and
10. to gather information and practice making decisions about selecting, insuring, and maintaining a motorcycle.

B. Laboratory curriculum. A written laboratory curriculum guide must be available to and used by each instructor conducting laboratory instruction. The curriculum must include at least the following:

1. orientation to the purpose, content, and procedures for laboratory instruction;
2. mounting, dismounting, starting, stopping, walking the cycle, clutch friction point, and riding in a straight line;
3. circles, weaving, sharp turns, and straight line shifting;
4. braking, turning, adjusting speed, shifting and accelerating in a turn;
5. simulated on-street riding and initial scanning techniques for recognizing and responding to obstacles;
6. passing, rear wheel skids, and quick stops;
7. riding on pegs, lane changing, and stopping on a curve;
8. reduced-risk urban, suburban, and rural riding techniques; and
9. formal evaluation, self-evaluation, and planning for future improvement.

C. Place for on-street instruction. All on-street instruction shall be conducted on a planned practice driving route. It shall not be on actual routes used for road tests for state driver licenses.

D. Classroom instruction. At least eight clock hours of classroom instruction must be scheduled. No more than three clock hours of classroom instruction may be scheduled per day for a single group of students.

E. Laboratory instruction. Laboratory instruction must include at least six clock hours of instruction. No more than two clock hours of laboratory instruction may be scheduled per day for a single group of students.

F. Sequence when simultaneous instruction. When both phases of the program are conducted during the same time period, at least two clock hours of classroom instruction must have been completed before beginning laboratory instruction. The laboratory instruction must be dispersed throughout the classroom instruction.

G. Sequence when successive instruction. Successful completion of the classroom phase is mandatory for enrollment in the laboratory phase, when the two phases of the program are conducted during separate time periods. The time period between the phases of instruction must not exceed one month.

H. Student-instructor ratio. The student-instructor ratio shall not exceed three students per instructor for on-street instruction and eight students per instructor for off-street driving range instruction.

I. Protective clothing. Instructors must ensure that all students, during laboratory instruction, wear helmets, eye protective devices, and protective clothing, including gloves, jackets or long-sleeved shirts, long pants, and leather shoes or boots which cover the foot.

J. Driver's license. Instructors must ensure that a student is in actual possession of a valid standard Minnesota driver's license before giving classroom instruction and a valid two-wheeled vehicle instruction permit before giving on-street instruction.

K. Program modification. A school district which does not provide the complete laboratory instruction may offer classroom instruction only after it has consulted with an approved on-street provider within the immediate area. The district must modify its program to minimize duplication of training and ensure coordination of classroom and laboratory instruction.

L. Authorized school official. A school district must identify an authorized school official to be responsible for certifying

satisfactory completion of the program. The official need not be licensed under 5 MCAR § 3.083 unless that person also is an instructor in the program.

1. When a student satisfactorily completes the motorcycle driver education program, including both classroom and laboratory instruction, the authorized school official must furnish the student a certificate of course completion.

2. When a student satisfactorily completes classroom instruction and intends to complete the program with another provider, the authorized school official must furnish the student a verification statement of completion of classroom instruction.

M. Annual report. A school district desiring approval for its motorcycle driver education program must submit an annual report to the Department of Education, on forms supplied by it, before conducting the course. The annual report must identify the authorized school official and all instructors who will be teaching students and each instructor's drivers license number.

EDU 149 Motorcycle requirements for motorcycle driver education.

A. Safety standards. Each motorcycle used for laboratory instruction for motorcycle driver education must comply with all federal and state motor vehicle safety standards for the model year of the motorcycle.

B. Required maintenance. Each motorcycle used for laboratory instruction must be maintained in safe operating condition through routine care and servicing.

C. Insurance or self-insurance required. The district shall provide a plan of reparation security covering each vehicle used. Residual liability coverage and uninsured motorist coverage must be provided in the following amounts: not less than $100,000 because of bodily injury to or death of any one person in any one accident; not less than $300,000 because of bodily injury to or death of two or more persons in any one accident; and not less than $50,000 because of damage to or destruction of property of others in any one accident.

EDU 150 Instructor requirements for motorcycle driver education.

All instructors providing motorcycle driver education instruction must be appropriately licensed by the Board of Teaching.

Repealer. Rule EDU 142 C. is repealed.

Minnesota Pollution Control Agency

Withdrawal of Previously Proposed Amendments to Agency Procedural Rules 6 MCAR §§ 4.3003, 4.3005 M., 4.3010, and 4.3013; Newly Proposed Amendments to 6 MCAR §§ 4.3003, 4.3005 M., 4.3010, and 4.3013

Notice of Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (agency) withdraws the proposed amendments to 6 MCAR §§ 4.3003, 4.3005 M., 4.3010 E., and 4.3013 as published at page 312 of the September 13, 1982, *State Register* (7 S.R. 312) and as corrected in the Errata published at page 506 of the October 4, 1982, *State Register* (7 S.R. 506).

Notice is hereby given that the agency intends to adopt newly proposed amendments to the above-listed rules. A public hearing will be held pursuant to Minn. Stat. §§ 14.05-14.20 (1982), in the above-entitled matter in the Board Room of the Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota, on Friday, May 20, 1983, commencing at 9:30 a.m. The hearing will be continued on subsequent days if necessary at the same location until all persons or representatives have had an opportunity to be heard concerning the adoption of the proposed rule amendments captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

The hearing will be conducted by Ms. Phyllis Reha, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7611, a hearing examiner appointed by the Chief Hearing Examiner of the State of Minnesota.

Amendments to the above-captioned rules were first proposed by the agency as a part of a rulemaking proceeding, held pursuant to Minn. Stat. §§ 14.21-14.28 (1982) without a public hearing, to amend the agency's procedural rules Minn. Rules MPCA 1-4 and 6-13. See *State Register*, Volume 7, Number 11, pages 312-320, September 13, 1982, as corrected in the Errata published at *State Register*, Volume 7, Number 14, Page 506, October 4, 1982. During the public comment period the Agency received more than seven requests for public hearing on the amendments proposed to 6 MCAR §§ 4.3003, 4.3005 M., and 4.3013. On October 26, 1982, the agency adopted a resolution to hold a rulemaking hearing on the amendments proposed to

those three rules and the amendment proposed as 6 MCAR § 4.3010 E. The agency's resolution also adopted the remainder of the amendments, notice of adoption of which was published at *State Register*, Volume 7, Number 25, pages 957-959, December 20, 1982, and which became effective on December 28, 1982.

On February 22, 1983, the agency withdrew the amendments to 6 MCAR §§ 4.3003, 4.3005 M., 4.3010 E., and 4.3013 and proposed new amendments to those same rules. The amendments which are the subject of this hearing are the new amendments.

The proposed amendments, if adopted, would:

1. Delete the last sentence of 6 MCAR § 4.3003, which contains a cross reference to a rule which has been repealed;

2. Change the word "chairman" to "chairperson" in 6 MCAR § 4.3005 M., and delete the provisions of the rules allowing the making of decisions by telephone poll.

3. Add a provision to the rule relating to contested case hearings (6 MCAR § 4.3010) which prohibits ex parte communications with agency members during the pendency of a contested case hearing.

4. Make minor stylistic and clarifying changes to 6 MCAR § 4.3013. The amendments also extend the required notice period from three calendar days to three working days where the director intends to release to the public information which was 1) requested to be certified as confidential, or 2) certified as confidential but required to be released by federal law.

One free copy of the newly proposed rule amendments may be obtained by contacting David Christopherson, Minnesota Pollution Control Agency, Roseville, Minnesota 55113, telephone (612) 296-7711.

The agency's authority to promulgate the proposed rule amendments is contained in Minn. Stat. § 116.07, subd. 3 (1982).

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency offices and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying the need for and reasonableness of the proposed rule amendments. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge. The statement of need and reasonableness may also be obtained by contacting David Christopherson at the address and telephone number stated above.

This proceeding is governed by Minn. Stat. §§ 14.05-14.20 (1982) and by the rules of the Office of Administrative Hearings, 9 MCAR §§ 2.101-2.113, and by other applicable requirements of state law. The hearing will be conducted so all interested persons will have an opportunity to participate. Any person having questions concerning the proceeding may telephone or write to the Hearing Examiner.

Upon completion of the hearing, the record will remain open for five working days, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner. Any person may submit written statements to the Hearing Examiner during this period.

Please be advised that the proposed rule amendments are subject to change as a result of the rule hearing process. The agency urges those who are interested to any extent in the proposed rule, including those who support the rule as proposed, to participate in the rule hearing process.

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

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01 (1982) 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

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.

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

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

Sandra S. Gardebring
Executive Director

Rules as Proposed

6 MCAR § 4.3003 Duty of candor.

In all formal or informal negotiations, communications, proceedings, and other dealings between any person and any member, employee, or agent of the agency, it shall be the duty of each person and each member, employee, or agent of the agency to act in good faith and with complete truthfulness, accuracy, disclosure, and candor. ~~Any violation of the aforesaid duty shall be cause for imposition of sanctions as provided in MPCA 11.~~

6 MCAR § 4.3005 Agency meetings.

A.-L. [Unchanged.]

M. Decisions at open meetings. All regular and special meetings of the agency shall be open to the public, and all decisions of the agency shall be made at such meetings~~; provided, however, that if the chairman, or in his absence, the vice-chairman, determines that the exigencies of time and circumstances warrant, then an agency decision may be made by telephone poll, or other appropriate means. The unavailability of any agency member shall not postpone the making of the decision. If, pursuant to the poll, a majority of all members of the agency cast an identical vote, the decision of the majority shall be an agency decision. In the event that an agency decision is made by telephone poll, or other appropriate means, such decision shall be subject to confirmation at the next agency meeting~~.

N.-Q. [Unchanged.]

6 MCAR § 4.3010 Contested case hearings.

A.-D. [Unchanged.]

E. Ex parte communication. During the pendency of a contested case, beginning at the time that the agency initiates the contested case hearing and ending upon final disposition of the contested case, no agency member may communicate with or accept a communication from any person concerning the subject matter of the contested case hearing except under the following conditions:

1. if the communication is in writing, copies of the communication must have been sent to all parties to the matter and to all other agency members; or

2. if the communication is oral, it must take place at a public meeting after reasonable notice of the time and place of the meeting has been given to all parties and to all other agency members.

E.-H. [Reletter as F.-I.]

6 MCAR § 4.3013 Confidential information.

~~(1)~~ A. Certification. In order to certify records, information, or objects for the confidential use of the agency, an owner ~~or~~, operator, or other person qualified by law, shall submit to the director a written statement setting forth those statutory grounds that require the agency to keep the records, information, or objects confidential. Any certification of records or information that applies to water pollution sources must be approved by the director. These records and information shall not be released unless the director denies the certification request. Whenever the director denies a certification request, the director shall notify the certifier of the denial at least three working days prior to making the records or information available to the public. The certifier may withdraw the records or information if such an option is available to him.

~~(2)~~ B. Filing. All certified records, information, or objects must be appropriately identified and segregated at the offices of the agency.

~~(3)~~ C. Agency use. Certified records, information, and objects, when approved by the director if required, are only for the confidential use of the agency. However, confidential information may be used by the agency in compiling or publishing analyses or summaries relating to the general condition of the state's water, air, and land resources so long as these analyses or summaries do not identify any owner or operator who has so certified.

~~(4)~~ D. Release authorization. Confidential information may be released when the agency is specifically authorized to do so by ~~the person who certified the records, information, or objects~~ statute.

~~(5)~~ E. Denial of request. Certified records or information that apply to water pollution sources may be released if the director denies the certification request. The provisions of ~~(1)~~ A. apply to this release.

~~(6)~~ F. Federal law. Regardless of whether records or information are certified confidential, the agency may disclose any information which it is obligated to disclose in order to comply with federal law and regulation, to the extent and for the purposes of such federally required disclosure. Whenever the agency is required to release certified information pursuant to federal law, ~~he~~ the director shall notify the certifier of this requirement at least three working days prior to making the records or information available to the public. The certifier may withdraw this information if such an option is available.

~~(7)~~ G. Use in contested case hearings. Confidential information that is relevant to a matter for which a ~~public~~ contested case hearing is being held and which has been made a part of the record, may be considered by the agency in reaching a decision on the matter, but must not be released to the public unless the agency is required by statute to release it. When the agency is required by statute to release the information at the public hearing, the person who certified the information may withdraw the information, but the information shall not be considered by the agency or the hearing ~~officer~~ examiner in reaching a decision or recommendation on the matter. Whenever confidential information is considered by the agency or a hearing ~~officer~~ examiner in reaching a decision or recommendation on a matter, that fact must be so stated on the record.

Department of Revenue
Property Tax Division

Proposed Rule Relating to Enterprise Zones (13 MCAR § 1.0010-1.0014)

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the Department of Revenue proposes to adopt the above-entitled rule without a public hearing. The commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes §§ 14.21 to 14.28.

Persons interested in this rule shall have thirty days to submit comments on the proposed rule. The proposed rule 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 rule within the thirty-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 Statute §§ 14.13 to 14.20.

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

Luci Mitchell, Attorney
Commissioner's Staff
Minnesota Department of Revenue
Second Floor Centennial Building
St. Paul, Minnesota 55145
Telephone: (612) 296-1022

Authority for the adoption of this rule is contained in Minnesota Statutes § 270.06 (14). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule has been prepared and is available from Luci Mitchell upon request. A copy of the proposed rule is also available from Luci Mitchell.

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

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.

The rules proposed for adoption relate to the following matters:

Minn. Stat. § 273.1312 allows for the designation of enterprise zones within the State of Minnesota by the Commissioner of Energy, Planning and Development. These rules relate to the tax classification of industrial employment property located within a designated enterprise zone.

Specifically, the proposed rule explains the process by which an owner or lesser of industrial employment property may apply to have that property classified as 4d. The procedure as outlined in Minn. Stat. § 273.1313 involves approval by the municipality followed by review and approval or disapproval by the Commissioner of Revenue. The proposed rules also include an explanation of how the market value of the industrial employment property is calculated. Approval of the classification must be received by October 10, in order to allow the property to be so treated for tax purposes in the year of application. Revocation of any classification granted would be considered by the Commissioner of Revenue upon receiving a request from the municipality.

The effect of these proposed rules is to clarify and explain the procedures which are generally contained in the statute.

April 5, 1983

Arthur C. Roemer
Commissioner of Revenue

Rules as Proposed (all new material)

13 MCAR § 1.0010 Purpose.

Rules 13 MCAR §§ 1.0011-1.0014 are promulgated pursuant to Laws of Minnesota 1982, chapter 523, article VI, sections 1 and 3, to implement and make specific the provisions of Laws of Minnesota 1982, chapter 523, article VI. The rules relate to the tax classification of industrial employment property.

13 MCAR § 1.0011 Definitions.

A. Statutory definitions. The terms defined in Laws of Minnesota 1982, chapter 523, article VI, sections 1 and 3 have the same meaning when used in 13 MCAR §§ 1.0011-1.0014. The terms in B. have the meanings given them for the purposes of Laws of Minnesota 1982, chapter 523, article VI, sections 1 and 3.

B. Manufacturing. "Manufacturing" includes activities in standard industrial classification codes 20-39 contained in the Minnesota Directory of Manufacturing, Nelson Marketing Service, Inc., Minneapolis.

13 MCAR § 1.0012 Application procedure for designation of industrial employment property.

A. Form of application. The commissioner of revenue shall provide to each county auditor and city clerk the form to be used by an applicant.

B. Applicant eligibility requirements. At the time of application the applicant must either own the property or have leased the property under a written lease and the lease must state that the applicant is responsible for the payment of all property taxes.

C. Review of application by municipality. Within 30 days after its final decision on an application, the governing body of the municipality shall submit its decision as set forth in the resolution, the application, a transcript or other written record of the hearing on the application, and a review by the municipality of the application as it relates to an existing tax increment financing district, to the commissioner of revenue. If the application is disapproved by the municipality, the grounds for denial must be stated. If the application is approved, the municipality shall submit findings showing the eligibility of the applicant including evidence relating to Minnesota Statutes, section 273.1313, subdivision 1, clause (4). All written material relating to public testimony shall be submitted to the commissioner of revenue.

D. Applicant appeals to commissioner. When an applicant appeals from a denial by the municipality, a written statement shall be submitted to the commissioner setting forth the applicant's basis for asserting either that the municipality's determination was arbitrary in relation to other applications acted upon by the municipality or that the municipality's denial was based upon a mistake of law.

E. Review of application by the commissioner of revenue. The commissioner shall notify the applicant and the municipality of his decision on the application.

Reasons for disapproval of the application by the commissioner may include one or more of the following:

1. failure to pay or make arrangements for payment of property taxes following application for the classification;

2. the requirements of Minnesota Statutes, sections 273.1312 and 273.1313 and 13 MCAR §§ 1.0010-1.0014 have not been met;

3. failure of the municipality to submit the information required;

4. use of the property prior to classification as industrial employment property;

5. failure of the applicant to state a basis for appeal of the municipality's denial.

F. Appeal of disapproved application. If, after reconsideration of the application upon a finding by the commissioner that grounds for appeal exist, the municipality disapproves the application, the disapproval constitutes final disapproval by the governing body and the governing body shall notify the commissioner of that decision within ten days.

If, after reconsideration of the application upon a finding by the commissioner that grounds for appeal exist, the municipality approves the application, the approval constitutes final approval by the commissioner and by the governing body. The governing body shall notify the commissioner of their decision within ten days.

13 MCAR § 1.0013 Industrial employment property classification.

A. Determination of market value. The market value of industrial employment property is its contribution to the value of the entire property. This value is not necessarily its cost. The market value of the facility, addition, or improvement will depend upon its contribution to the value of the whole property. For instance, a business has a facility which currently has a market value of $200,000. The business builds an addition at a cost of $300,000 and the addition qualifies as industrial employment property. With all other things remaining equal, the assessor values the whole facility (both old facility and new addition) at $450,000. The market value of the industrial employment property in this case would be $250,000 rather than $300,000 because the addition contributes only $250,000 to the value of the whole.

Property exempt from taxation at the time of designation as industrial employment property must be valued by the local assessor as of the January 2 prior to application for the classification.

Property abandoned at the time of designation as industrial employment property must be valued by the local assessor based only upon the improvements made by the applicant.

Industrial employment property may be reassessed annually.

B. Effective date of classification. Property will be classified as industrial employment property for taxes levied in the year of application if the application is approved prior to October 10 by both the municipality and the commissioner of revenue or, where applicable, by the court.

13 MCAR § 1.0014 Revocation of industrial employment property classification.

The commissioner of revenue shall consider revoking the industrial employment property classification upon the request of the municipality. The municipality shall state its reasons for requesting revocation as required in Minnesota Statutes, section 273.1313, subdivision 4, before the commissioner shall consider revocation. In addition to the reasons outlined in Minnesota Statutes, section 273.1313, subdivision 4, the commissioner shall also consider any changes in ownership as well as failure to pay or make arrangements for payment of property taxes from the date of classification as industrial-employment property. The commissioner shall notify officials of other taxing districts in which property is located and the owners of the property or their representatives that revocation has been requested. Within 30 days of receipt of the request for revocation, the commissioner may hold a conference with representatives of the municipality, officials of other taxing districts in which the property is located, the owners of the property or their representatives. The commissioner shall notify the county or city assessor, the governing body of the municipality, and the owner of the property within ten days after a classification has been revoked.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

ADOPTED RULES

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 Transportation

Adopted Rules Governing Individual Eligibility for Special Transportation Service for the Metropolitan Area of Minneapolis and St. Paul

The rules proposed and published at *State Register*, Volume 7, Number 7, pages 202-206, August 16, 1982, (7 S.R. 202), are adopted with the following modifications:

Rules as Adopted

14 MCAR § 1.7025 Definitions.

A. Scope. Definitions of terms in 14 MCAR § 1.7025 apply to 14 MCAR §§ 1.7025-1.7037.

B. Appeal. "Appeal" means a request for additional review of an application under 14 MCAR § 1.7037 after the initial application has been denied.

C. Commissioner. "Commissioner" means the commissioner of transportation.

D. Disability. "Disability" means physical or mental impairment.

E. Handicapped. "Handicapped" means having a physical or mental impairment which limits one or more major life activities.

F. Mainline bus service. "Mainline bus service" means bus transportation that operates on fixed routes and schedules and is designed to serve the general public.

G. Major life activities. "Major life activities" means functions such as performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, and caring for oneself.

H. Metro Mobility. "Metro Mobility" means the project for coordination of special transportation service in the Twin Cities metropolitan area established under Minnesota Statutes, section 174.31, subdivision 1.

I. Motor vehicle. "Motor vehicle" has the meaning given to it in Minnesota Statutes, section 169.01, subdivision 3.

J. Physical or mental impairment. "Physical or mental impairment" means any physiological disorder or condition; any anatomical loss; any mental or psychological disorder; and specific learning disabilities. The term ~~includes such~~ describes all diseases ~~and conditions as~~ that relate to orthopedic, visual, speech, ~~and~~ hearing ~~impairments;~~, and mental disorders, such as cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; mental retardation; emotional illness; drug addiction; ~~and~~ alcoholism; autism; arthritis; and diabetes.

K. Special transportation service. "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private person, designed to serve ~~only~~ handicapped persons, elderly persons, and others with special transportation needs who are unable to use mainline bus service.

L. Temporary disability. "Temporary disability" means a disability expected to last for less than one year.

M. Trained. "Trained" is a term applied to a person who has acquired the skills to use mainline bus service and is not prevented from doing so by a mental impairment or learning disability.

14 MCAR § 1.7026 Authority, purpose, and scope of rules.

A. Authority. Rules 14 MCAR §§ 1.7025-1.7037 are adopted pursuant to the requirements of Minnesota Statutes, section 174.31, subdivision 3, clause (g).

B. Purpose. The purpose of 14 MCAR §§ 1.7025-1.7037 is to establish criteria to determine who is eligible for Metro Mobility special transportation services.

C. Scope. Rules 14 MCAR §§ 1.7025-1.7037 apply to persons in the Twin Cities area who request transportation services from the Metro Mobility special transportation project.

14 MCAR § 1.7027 Eligibility criteria.

A person who requests Metro Mobility service is eligible for the service if the person is unable to walk ~~or wheel~~ one-fourth mile or more; or unable to walk up and down the steps of a mainline bus; or unable to wait outdoors for ten minutes or more; or unable to use or learn to use mainline bus service because of a mental impairment or learning disability.

A person with temporary disabilities is not eligible for Metro Mobility service. A person having the double limitations of blindness and deafness is automatically eligible.

14 MCAR § 1.7028 Individual certification number.

An individual certification number shall be issued to an applicant found eligible under the criteria set forth in 14 MCAR § 1.7027. No person may use Metro Mobility service without a current certification number.

14 MCAR § 1.7029 Applications for certification numbers.

Applicants shall request a certification number on forms provided by the commissioner. Application forms may be obtained from the Metro Mobility Transportation Center. All completed applications shall be delivered or mailed to the Metro Mobility Transportation Center. A determination of eligibility shall be made within 30 calendar days of the receipt of the application and all verification information.

14 MCAR § 1.7030 Application forms.

A. Information. Applicants shall submit ~~at least~~ the following information on the application form:

1. applicant's signature, certifying that all statements on the application form are true, and the date of signature;
2. applicant's name, address, telephone number, and any medical assistance number;
3. applicant's weight, date of birth, current Metro Mobility certification number, if any;
4. name and telephone number of person to notify in case of emergency;
5. applicant's disability and how it prohibits use of mainline bus service;
6. applicant's current mode of transportation, other than Metro Mobility; and
7. equipment the applicant uses when traveling outdoors, such as wheelchair, braces, orthopedic cane, walker, crutches, artificial limb, or white cane.

B. Answers. Applicants shall answer ~~at least~~ the following questions on the application form, explaining any negative responses to questions 7., 8., or 9.:

1. Is the applicant blind, deaf, or mentally handicapped? If so, has applicant received training in the use of mainline bus service? If applicant has not received training, why not? Would applicant agree to be trained in the use of mainline bus service? If not, why not? If applicant has received training, is applicant able to use mainline bus service? If not, why not?
2. Does the applicant need an attendant or escort when traveling? Explain.
3. Is the applicant's mobility limitation permanent?
4. Does the applicant need Metro Mobility service for all or only part of the year?
5. Does the applicant require a vehicle with a lift or ramp?
6. Does the applicant use a wheelchair? If so, can the applicant use an automobile or taxi?
7. Can the applicant walk ~~or wheel~~ for one-fourth mile in snow and in clear weather?
8. Can the applicant wait outdoors for ten minutes, both in temperatures above 32 degrees Fahrenheit and in temperatures below 32 degrees Fahrenheit?
9. Is the applicant able to walk up and down steps of a mainline bus?

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14 MCAR § 1.7031 Mental disability form.

A. Answers. An additional mental disability form must be submitted for a person with a mental disability that prohibits use of mainline bus service. Applicants must answer ~~at least~~ the following additional questions:

1. Does the applicant become overly anxious in unusual travel situations?
2. Is the applicant able to compare information cards with such things as signs, bus line numbers, and landmarks?
3. Is the applicant able to ask for and understand assistance if lost?
4. Is the applicant able to follow directions and maintain attention to traveling?
5. Is the applicant able to cross streets in heavy traffic?

B. Names and date. The mental disability form must include the name of the applicant, name and relationship to applicant of person completing form, and date of completion.

14 MCAR § 1.7032 Medical verification form.

A. Submitting. It is the applicant's responsibility to obtain a medical verification form and send it to the physician, certified physical therapist, or licensed psychologist most knowledgeable regarding applicant's disability. The appropriate physician, certified physical therapist, or licensed psychologist shall complete the form, describing applicant's mobility limitation and explaining how the disability interferes with use of mainline bus service or the ability to learn to use mainline bus service, and submit it to the Metro Mobility Transportation Center.

B. Exemptions. A medical verification form is not required for persons confied to wheelchairs, or for persons who otherwise because of their disability require lift or ramp service.

14 MCAR § 1.7033 False information.

Persons who provide false information on the certification form, mental disability form, or verification form shall not be issued an individual certification number for use of Metro Mobility special transportation service. If it is found that certification has been granted on the basis of false information given, individual certification shall be revoked.

14 MCAR § 1.7034 Winter season certification.

Persons who require special transportation service during the winter months only are eligible to receive Metro Mobility service from November 1 through April 15. Persons who request winter season certification must submit regular Metro Mobility certification application forms. An applicant found eligible for seasonal certification shall be issued an individual certification number that shows seasonal certification status.

14 MCAR § 1.7035 Conditional certification.

Persons who need temporary special transportation service until trained to use mainline bus service are eligible to receive Metro Mobility service for up to 18 months while receiving training. This conditional certification is dependent upon the applicant's agreement to complete training. Conditional certifications must be reviewed individually at six-month intervals.

Persons who request conditional certification must submit regular Metro Mobility certification application forms. An applicant found eligible for conditional certification shall be issued an individual certification number that shows conditional certification status.

14 MCAR § 1.7036 Certification appeals board.

The commissioner shall establish a Metro Mobility Certification Appeals Board. The commissioner shall select board members and appoint a chairperson. Duties of members are as described in 14 MCAR § 1.7037. Board members may not alter eligibility criteria.

14 MCAR § 1.7037 Appeal process.

Persons determined to be ineligible for special transportation service by Metro Mobility staff may appeal this initial decision through the following procedure:

A. The applicant shall submit to the manager of the Metro Mobility Transportation Center additional information and explanation regarding the applicant's inability to use mainline bus service. The applicant shall have 30 calendar days from receipt of ineligibility notice to appeal to the Metro Mobility manager.

B. The manager shall review the additional documentation, make the decision, and prepare a written statement of reasons for the decision. Notice of the decision and a copy of the statement must be mailed to the applicant within 30 calendar days of receipt of the appeal.

C. If the applicant is dissatisfied with the manager's decision, the applicant may then appeal to the Metro Mobility

Certification Appeals Board within a maximum time period of 30 days. The applicant shall mail a letter to the commissioner requesting a review by the appeals board. The appeals board shall have no more than 30 calendar days to make its decision. The decision of the appeals board is the final agency decision.

D. If the manager of the Metro Mobility Center or the certification appeals board fails to act by the given deadline, then the applicant shall be automatically certified. If the applicant fails to meet his or her deadline in the appeal process, the finding of ineligibility shall stand.

Department of Administration
Building Codes and Standards Division

Adopted Rules Governing Amendments to the State Building Code Entitled Proposed Optional Appendix E Automatic Fire Suppression Systems

Rule as Adopted

2 MCAR § 1.10020 Optional provisions for installation of on-premises fire suppression systems.

A. Purpose. This rule authorizes optional provisions for the installation of on-premises fire suppression systems in new construction. It is intended to alleviate increasing demands for additional fire suppression resources by allowing a municipality to adopt the optional provisions of this rule based on its local fire suppression capabilities.

B. Municipal option. The sprinkler system requirements in C. may be adopted without change by a municipality. If they are adopted, the requirements are applicable throughout the municipality for new buildings, additions to buildings, and buildings for which the occupancy classification is changed.

C. Requirements. Automatic sprinkler systems must be installed and maintained in operable condition in buildings in the occupancy classifications listed in 1.-12. This requirement is in addition to other minimum requirements set in the state building code. The height and area increases provided ~~for~~ in sections 506 and 507 of the Uniform Building Code, as adopted in the state building code ~~may be applied~~ are applicable.

1. Group A-1 occupancies.

2. Group A-2 occupancies with an occupant load of 300 or more.

3. Group A-2.1 occupancies.

4. Group B-1 service stations with 3,000 or more gross sq. ft. of area, not including canopies.

5. Group B-1 parking garages with 5,000 or more gross sq. ft. of area.

6. Group B-2 offices and post-secondary classrooms with 8,500 or more gross sq. ft. of area or three or more stories in height.

7. Group B-2 retail, warehouse, or manufacturing areas with 2,000 or more gross sq. ft. of area or three or more stories in height.

8. Group E-1 and E-2 occupancies with 8,500 or more gross sq. ft. in area or two or more stories in height, except for minor additions that do not increase the occupant load or significantly increase the fire load.

9. Group E-3 occupancies with an occupant load of 30 or more.

10. Group H-4 occupancies with 3,000 or more gross sq. ft. of area.

11. Group R-1 apartment houses with 8,500 or more gross sq. ft. of area or with dwelling units on three or more floors, except that when they are not required by Uniform Building Code, sections 1807 or 1907, or other provisions of the state building code, automatic sprinkler systems within dwelling units in apartment occupancies are considered complete when protection is provided in all habitable rooms. Building officials, in concurrence with their fire chiefs, may accept alternate

systems ~~not fully complying~~ which have fire protection capabilities equivalent to systems which comply with Standard 38-1 of the Uniform Building Code.

12. Group R-1 hotels and motels with 8,500 or more gross sq. ft. of area or with guest rooms on three or more floors.

Department of Natural Resources

Commissioner's Order No. 2140

Amending Commissioner's Order No. 2113, Regulating the Taking and Possession of Certain Species of Fish in Inland Waters

Pursuant to authority vested in me by law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following amendments to Commissioner's Order No. 2113, regulating the taking and possession of certain species of fish in inland waters.

Section 1. Section 1, paragraphs B2, B3, C, F, and G of Commissioner's Order No. 2113 are amended to read as follows:

Species and Open Season	Daily & Possession Limits
B. 2. In all streams of the Lake Superior watershed in St. Louis, Lake and Cook counties, above the posted boundaries (noted in 1 above), except the St. Louis River and Estuary (that body of water lying inland of Minnesota Point) and their tributaries, Saturday nearest April 15 to September 30.	10 (In aggregate. Not more than 3 may be 16 inches in length or over. Not more than 5 in aggregate may be rainbow trout or brown trout.)
B.3. In all other streams of the state (not listed in 1 or 2 above): South of U.S. Highway 12, 10:00 a.m. on Saturday nearest April 15 to September 30; North of U.S. Highway 12, Saturday nearest April 15 to September 30.	5 (Not more than 3 may be 16 inches in length or over.)
C. Lake Trout. Statewide from Saturday nearest May 15 to September 30; on all waters lying entirely within the Boundary Waters Canoe Area Wilderness, from Saturday nearest January 1 to March 31; on all waters lying entirely or partly outside the Boundary Waters Canoe Area Wilderness, from Saturday nearest January 15 to March 15; on all streams and rivers from Lake Superior upstream to posted boundaries, from Saturday nearest January 1 to September 30; and on the following lakes, from Saturday nearest January 15 to March 15:	3
F. Salmon. Continuous in all waters. In those waters listed in Section 1.B.1. of this order, any salmon that is hooked in any part of the body except the mouth shall be unhooked and returned immediately to the stream.	10 (In aggregate. Not more than 3 may be Atlantic salmon, minimum size 10 inches in length.)
G. Muskellunge (including hybrid). In all waters from the first Saturday in June to February 15. Minimum size limit: 30 inches in length south of U.S. Highway 210; 36 inches in length north of U.S. Highway 210 (from Duluth to Breckenridge).	1

Lake	County
Alton	Cook
Snowbank	Lake
Seagull	Cook
Magnetic	Cook
Clearwater	Cook
Ram	Cook

Sec. 2. Commissioner's Order No. 2113 is further amended by the addition of Section 5 to read as follows:

Sec. 5. On all streams and rivers from Lake Superior upstream to posted boundaries, angling hours are from one hour before sunrise to one hour after sunset.

Except as provided in this order, all provisions of Commissioner's Order No. 2113 shall remain in full force and effect.

Dated at St. Paul, Minnesota, this 29th day of March, 1983.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Department of Natural Resources

Commissioner's Order No. 2141

Amending Commissioner's Order No. 2116, Regulating the Taking of Fish from Lake Superior

Pursuant to authority vested in me by law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following amendment to Commissioner's Order No. 2116, regulating the taking of fish from Lake Superior.

Section 1. Section 2 of Commissioner's Order No. 2116 is amended to read as follows:

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

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

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

Except as provided in this order, all provisions of Commissioner's Order No. 2116 shall remain in full force and effect.

Dated at Saint Paul, Minnesota, this 29th day of March, 1983.

Joseph N. Alexander, Commissioner
Department of Natural Resources

Board of Nursing

Adopted Amendments to Rules Relating to Licensure Fees, Examinations, Continuing Education for Professional Nurses and Reregistration

The rules proposed and published at *State Register*, Volume 7, Number 20, pages 749-753, November 15, 1982 (7 S.R. 749) are adopted with the following modifications:

Rules as Adopted

7 MCAR § 5.1031 Registration renewal.

A. Requirements.

4. At least one of the acceptable continuing education activities required for registration renewal on or after August 1,

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.

1986, shall require the licensee to show evidence that he ~~or~~ / she successfully demonstrated to the instructor skill in performing one or a portion of a professional nursing function as indicated in Minnesota Statutes 1976, section 148.171, clause (3).

8. In order for a continuing education activity to be acceptable to the board for registration renewal, a licensee ~~must~~ shall be able to substantiate that each of the criteria listed below has been met.

~~A continuing education activity that is approved by another board of nursing, another Minnesota health-related licensing board as defined in Minnesota Statutes, section 214.01, subdivision 2, or a national, regional, or out-of-state nursing organization, or an activity that is conducted or sponsored by a national, regional, or state medical organization, is acceptable even if criteria c. and e. are not met.~~

Minnesota Public Utilities Commission

Adopted Rules Governing Cogeneration and Small Power Production

The rules proposed and published at *State Register*, Volume 6, Number 39, pages 1637-1648, March 29, 1982 (6 S.R. 1637) and Volume 7, Number 4, pages 114-116, July 26, 1982 (7 S.R. 114) are adopted with the following modifications and are set forth in their entirety:

Rules as Adopted

4 MCAR § 3.0450 Scope and purpose. The purpose of 4 MCAR §§ 3.0450~~-3.0463~~ 3.0462 is to implement certain provisions of Minn. Stat. § 216B.164; the Public Utility Regulatory Policies Act of 1978, 16 United States Code, Section 824a-3 (Supplement III, 1979); and the Federal Energy Regulatory Commission regulations, 18 Code of Federal Regulations, Sections 292.101-292.602 (1981). Nothing in 4 MCAR §§ 3.0450~~-3.0463~~ 3.0462 excuses any utility from carrying out its responsibilities under these provisions of state and federal law. Rules 4 MCAR §§ 3.0450~~-3.0463~~ 3.0462 shall at all times be applied in accordance with their intent to give the maximum possible encouragement to cogeneration and small power production consistent with protection of the ratepayers and the public.

4 MCAR § 3.0451 Definitions.

A. Applicability. For purposes of 4 MCAR §§ 3.0450~~-3.0463~~ 3.0462, the following terms have the meanings given them.

B. Average annual fuel savings. "Average annual fuel savings" means the annualized difference between the system fuel costs that the utility would have incurred without the additional generation facility and the system fuel costs the utility is expected to incur with the additional generation facility.

C. Backup power. "Backup power" means electric energy or capacity supplied by the utility to replace energy ordinarily generated by a qualifying facility's own generation equipment during an unscheduled outage of the facility.

D. Capacity. "Capacity" means the capability to produce, transmit, or deliver electric energy.

E. Capacity costs. "Capacity costs" means the costs associated with providing the capability to deliver energy. They consist of the capital costs of facilities used to generate, transmit, and distribute electricity and the fixed operating and maintenance costs of these facilities.

F. Commission. "Commission" means the Minnesota Public Utilities Commission.

G. Energy. "Energy" means electric energy, measured in kilowatt-hours.

H. Energy costs. "Energy costs" means the variable costs associated with the production of electric energy. They consist of fuel costs and variable operating and maintenance expenses.

I. Firm power. "Firm power" means energy delivered by the qualifying facility to the utility with at least 65 percent on-peak capacity factor in the month. The capacity factor is based upon the qualifying facility's maximum on-peak metered capacity delivered to the utility during the month.

J. Generating utility. "Generating utility" means a utility which regularly meets all or a portion of its electric load through the scheduled dispatch of its own generating facilities.

K. Incremental cost of capital. "Incremental cost of capital" means the current weighted cost of the components of a utility's capital structure, each cost weighted by its proportion of the total capitalization.

L. Interconnection costs. "Interconnection costs" means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, and administrative costs incurred by the utility that are directly related to

installing and maintaining the physical facilities necessary to permit interconnected operations with a qualifying facility. Costs are considered interconnection costs only to the extent that they exceed the corresponding costs which the utility would have incurred if it had not engaged in interconnected operations, but instead generated from its own facilities or purchased from other sources an equivalent amount of electric energy or capacity. Costs are considered interconnection costs only to the extent that they exceed the costs the utility would incur in selling electricity to the qualifying facility as a nongenerating customer.

~~J.~~ M. Interruptible power. "Interruptible power" means electric energy or capacity supplied by the utility to a qualifying facility subject to interruption under ~~certain specified conditions~~ the provisions of the utility's tariff applicable to the retail class of customers to which the qualifying facility would belong irrespective of its ability to generate electricity.

~~K.~~ N. Maintenance power. "Maintenance power" means electric energy or capacity supplied by a utility during scheduled outages of the qualifying facility.

~~L.~~ O. Marginal capital carrying charge rate in the first year of investment. "Marginal capital carrying charge rate in the first year of investment" means the percentage factor by which the amount of a new capital investment in a generating unit would have to be multiplied to obtain an amount equal to the total additional ~~annual~~ first year amounts for the cost of equity and debt capital, income taxes, property and other taxes, tax credits (amortized over the useful life of the generating unit), depreciation, and insurance which would be associated with the new capital investment and would account for the likely inflationary or deflationary changes in the investment cost due to the one-year delay in building the unit.

P. Nongenerating utility. "Nongenerating utility" means a utility which has no electric generating facilities, or a utility whose electric generating facilities are used only during emergencies or readiness tests, or a utility whose electric generating facilities are ordinarily dispatched by another entity.

~~M.~~ Q. On-peak hours. "On-peak hours" means, for utilities whose rates are regulated by the commission, those hours which are defined as on-peak for retail ratemaking. For any other utility, on-peak hours are either those hours formally designated by the utility as on-peak for ratemaking purposes or those hours for which its typical loads are at least 85 percent of its average maximum monthly loads.

~~N.~~ R. Purchase. "Purchase" means the purchase of electric energy or capacity or both from a qualifying facility by a utility.

~~O.~~ S. Qualifying facility. "Qualifying facility" means a cogeneration or small power production facility which satisfies the conditions established in 18 Code of Federal Regulations, Section 292.101 (b) (1) (1981), as applied when interpreted in accordance with the amendments to 18 Code of Federal Regulations, Sections 292.201-292.207 adopted through 46 Federal Register 33025-33027 (1981). The initial operation date or initial installation date of a cogeneration or small power production facility shall not prevent the facility from being considered a qualifying facility for the purposes of 4 MCAR §§ 3.0450~~-3.0463~~ 3.0462 if it otherwise would satisfy all stated conditions.

~~P.~~ T. Sale. "Sale" means the sale of electric energy or capacity or both by an electric utility to a qualifying facility.

~~Q.~~ U. Supplementary power. "Supplementary power" means electric energy or capacity supplied by the utility which is regularly used by a qualifying facility in addition to that which the facility generates itself.

~~R.~~ V. System emergency. "System emergency" means a condition on a utility's system which is imminently likely to result in significant disruption of service to customers or to endanger life or property.

~~S.~~ W. System incremental energy costs. "System incremental energy costs" means amounts representing the hourly energy costs associated with the utility generating the next kilowatt-hour of load during each hour.

~~T.~~ X. Utility. "Utility" means any public utility subject to rate regulation by the commission engaged in the generation, transmission, or distribution of electricity in Minnesota~~.~~ ~~The term includes~~, and any cooperative electric ~~associations~~ association and municipally-owned electric ~~utilities~~ utility not subject to rate regulation by the commission which becomes interconnected with a qualifying facility.

4 MCAR § 3.0452 Filing requirements.

A. Filing dates. Within 60 days after the effective date of 4 MCAR §§ 3.0450~~-3.0463~~ 3.0462, on January 1, ~~1983~~ 1984, and every 12 months thereafter, each utility shall file with the commission, for its review and approval, a cogeneration and small power production tariff ~~which~~. The tariff for generating utilities shall contain Schedules A through F ~~or, if applicable,~~

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~~Schedules A through D plus Schedules F and G~~, except that generating utilities with less than 500 million kilowatt-hour sales in the calendar year preceeding the filing may substitute their retail rate schedules for Schedules A and B. The tariff for nongenerating utilities shall contain Schedules C, D, F, and G, and may, at the option of the utility, contain Schedules A and B, using data from the utility's wholesale supplier.

B. Filing option. If, after the initial filing, there is no change in the cogeneration and small power production tariff to be filed in a subsequent year, the utility may notify the commission in writing, by the date the tariff would otherwise be due, that there is no change in the tariff. This notification will serve as a substitute for the refiling of the tariff in that year.

~~B.~~ C. Schedule A. Schedule A shall contain the estimated system average incremental energy costs by seasonal peak and off-peak periods for each of the next five years. For each seasonal period, system incremental energy costs shall be averaged during system daily peak hours, system daily off-peak hours, and all hours in the season. The energy costs shall be increased by a factor equal to 50 percent of the line losses shown in Schedule B. Schedule A shall describe in detail the method used to determine the on-peak and off-peak hours and seasonal periods and shall show the resulting on-peak and off-peak and seasonal hours selected.

~~C.~~ D. Schedule B. Schedule B shall contain the information listed in 1.-5.

1. Schedule B shall contain a description of all planned utility generating facility additions anticipated during the next ten years, including:

a. Name of unit;

b. Nameplate rating;

c. Fuel type;

d. In-service date;

e. Completed cost in dollars per kilowatt in the year in which the plant is expected to be put in service, including allowance for funds used during construction;

f. Anticipated average annual fixed operating and maintenance costs in dollars per kilowatt;

g. Energy costs associated with the unit, including fuel costs and variable operating and maintenance costs;

h. Projected average number of kilowatt-hours per year the plant will generate during its useful life; and

i. Average annual fuel savings resulting from the addition of this generating facility, stated in dollars per kilowatt.

2. Schedule B shall contain a description of all planned firm capacity purchases, other than from qualifying facilities, during the next ten years, including:

a. Year of the purchase;

b. Name of the seller;

c. Number of kilowatts of capacity to be purchased;

d. Capacity cost in dollars per kilowatt; and

e. Associated energy cost in cents per kilowatt-hour.

3. Schedule B shall contain the utility's overall average percentage of line losses due to the distribution, transmission, and transformation of electric energy.

4. Schedule B shall contain the utility's net annual avoided capacity cost stated in dollars per kilowatt-hour averaged over the on-peak hours and the utility's net annual avoided capacity cost stated in dollars per kilowatt-hour averaged over all hours. These figures shall be calculated as follows:

a. The completed cost per kilowatt of the utility's next major generating facility addition, as reported in Schedule B, shall be multiplied by the utility's marginal capital carrying charge rate in the first year of investment. If the utility is unable to determine this carrying charge rate as specified, the rate of 15 percent shall be used.

b. The dollar amount resulting from the calculation set forth in a. shall be discounted to present value, as of the midpoint of the reporting year, from the in-service date of the generating unit. The discount rate used shall be the ~~most recent overall rate of return authorized by the commission for the reporting utility. If the reporting utility is not rate regulated by the commission or is regulated but has not yet had an overall rate of return established by the commission, the utility shall use the overall rate of return most recently authorized for the larges electric utility, measured by annual Minnesota revenues, in the commission's jurisdiction~~ incremental cost of capital.

c. The figure for average annual fuel savings per kilowatt described in 1.i. shall be discounted to present value using the procedure of b.

d. The number resulting from the calculation in c. shall be subtracted from the number resulting from the calculation in b. This is the net annual avoided capacity cost stated in dollars per kilowatt at present value.

e. The net annual avoided capacity cost calculated in d. shall be multiplied by 1.15 to recognize a reserve margin.

f. The figure determined from the calculation of e. shall be increased by the ~~amount~~ present value of the anticipated average annual fixed operating and maintenance costs as reported in 1.f. The present value shall be determined using the procedure of b.

g. The figure determined from the calculation of f. shall be increased by one-half of the percentage amount of the average system line losses as shown on Schedule B.

h. The annual dollar per kilowatt figure, as calculated in accordance with g., shall be divided by the annual number of hours in the on-peak period as specified in Schedule A. The resulting figure is the utility's net annual on-peak avoided capacity cost in dollars per kilowatt-hour.

i. The annual dollar per kilowatt figure resulting from the calculation specified in g. shall be divided by the total number of hours in the year. The resulting figure is the utility's net annual avoided capacity cost in dollars per kilowatt-hour averaged over all hours.

5. If the utility has no planned generating facility additions for the ensuing ten years, but has planned additional capacity purchases, other than from qualifying facilities, during the ensuing ten years, Schedule B shall contain its net annual avoided capacity cost stated in dollars per kilowatt-hour averaged over the on-peak hours and the utility's net annual avoided capacity costs stated in dollars per kilowatt-hour averaged over all hours. These shall be calculated as follows:

a. The annual capacity purchase amount, in dollars per kilowatt, for the utility's next planned capacity purchase, other than from a qualifying facility, shall be discounted to present value as of the midpoint of the reporting year, from the year of the planned capacity purchase. The discount rate used shall be ~~determined in the manner described in 4.b~~ the incremental cost of capital.

b. The net annual avoided capacity cost shall be computed by applying the figure determined in a. to the steps enumerated in 4.d.-4.i., excluding 4.g.

6. If the utility has neither planned generating facility additions nor planned additional capacity purchases, other than from qualifying facilities, during the ensuing ten years, the utility shall be deemed to have no avoidable capacity costs.

~~D.~~ E. Schedule C. Schedule C shall contain all standard contracts to be used with qualifying facilities, containing applicable terms and conditions.

~~E.~~ F. Schedule D. Schedule D shall contain the utility's safety standards, required operating procedures for interconnected operations, and the functions to be performed by any control and protective apparatus. These standards and procedures shall not be more restrictive than the interconnection guidelines listed in 4 MCAR § 3.0462. The utility may include in Schedule D suggested types of equipment to perform the specified functions. No standard or procedure shall be established to discourage cogeneration or small power production.

~~F.~~ G. Schedule E. Schedule E shall contain procedures for notifying affected qualifying facilities of any periods of time when the utility will not purchase electric energy or capacity because of extraordinary operational circumstances which would make the costs of purchases during those periods greater than the costs of internal generation.

~~G.~~ H. Schedule F. Schedule F shall contain and describe all computations made by the utility in determining Schedules A and B.

~~H.~~ I. Schedule G; special rule for nongenerating utilities. ~~An electric utility which purchases all the power it sells shall obtain the data for Schedule A and Schedule B from its supplying utility. The nongenerating utility shall file this data as Schedule A and Schedule B. In addition, the nongenerating utility shall file Schedules C, D, F, and Schedule G. Schedule G shall list the rates at which the nongenerating utility currently purchases energy and capacity~~ Schedule G shall list the rates at which a nongenerating utility purchases energy and capacity. If the nongenerating utility has more than one wholesale supplier,

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Schedule G shall list the rates of that supplier from which purchases may first be avoided. If the nongenerating utility with more than one wholesale supplier also chooses to file Schedules A and B, the data on Schedules A and B shall be obtained from that supplier from which purchases may first be avoided.

~~I.~~ J. Availability of filings. All filings required by A.~~H.~~ I. shall be made with the commission and shall be maintained at the utility's general office and any other offices of the utility where rate case filings are kept. These filings shall be available for public inspection at the commission and at the utility offices during normal business hours.

4 MCAR § 3.0453 Reporting requirements.

A. General requirements. Each utility which is interconnected with a qualifying facility shall provide the commission with the following information on or before November 1, ~~1982, and at any other such times~~ 1983, on January 1, 1986, and every two years thereafter, and in ~~any~~ such form as the commission may require.

B. Net energy billed qualifying facilities. For qualifying facilities under net energy billing, the utility shall provide the commission with the following information:

1. a summary of the total number of interconnected qualifying facilities, the type of interconnected qualifying facilities by energy source, and the name plate ratings of such units;

2. for each qualifying facility type, the total kilowatt-hours delivered per month to the utility by all net energy billed qualifying facilities;

3. for each qualifying facility type, the total kilowatt-hours delivered per month by the utility to all net energy billed qualifying facilities; and

4. for each qualifying facility type, the total net energy delivered per month to the utility by net energy billed qualifying facilities.

C. Other qualifying facilities. For all qualifying facilities not under net energy billing, the utility shall provide the commission with the following information:

1. a summary of the total number of interconnected qualifying facilities, the type of interconnected qualifying facilities, and the nameplate ratings of such units; and

2. for each qualifying facility type, the total kilowatt-hours delivered per month to the utility, reported by on-peak and off-peak periods to the extent that data is available.

D. Wheeling. The utility shall provide a summary of all wheeling activities undertaken with respect to qualifying facilities.

E. Major impacts. The utility ~~shall~~ may provide a statement of any major impacts that cogeneration or small power production has had on the utility's system.

F. Effectiveness. The utility ~~shall~~ may provide a statement of the effectiveness of Minn. Stat. § 216B.164 and 4 MCAR §§ 3.0450-~~3.0463~~ 3.0462 in encouraging cogeneration and small power production, as observed by the utility.

4 MCAR § 3.0454 Conditions of service.

A. Requirement to purchase. The utility shall purchase energy ~~or~~ and capacity from any qualifying facility which offers to sell energy to the utility and agrees to the conditions set forth in 4 MCAR §§ 3.0450-~~3.0463~~ 3.0462.

B. Written contract. A written contract shall be executed between the qualifying facility and the utility.

C. Compliance with national electrical safety code. The interconnection between the qualifying facility and the utility shall comply with the requirements of the *National Electrical Safety Code*, 1981 edition, issued by the Institute of Electrical and Electronics Engineers as American National Standards Institute Standard C2 (New York, 1980).

D. Responsibility for apparatus. The qualifying facility, without cost to the utility, shall furnish, install, operate, and maintain in good order and repair any apparatus the qualifying facility needs in order to operate in accordance with Schedule D. ~~At the request of the qualifying facility, the utility shall furnish, install, operate, and maintain all or any portion of the apparatus and bill the qualifying facility for the equipment and service at cost.~~

E. Liability insurance. A utility or qualifying facility ~~shall not~~ may require proof of coverage or the procurement of a reasonable amount of liability insurance up to $300,000 as a condition of service.

F. Legal status not affected. Nothing in 4 MCAR §§ 3.0450-~~3.0463~~ 3.0462 affects the responsibility, liability, or legal rights of any party under applicable law or statutes. No party shall require the execution of an indemnity clause or hold harmless clause in the written contract as a condition of service.

G. Payments for interconnection costs. Payments for interconnection costs may~~,~~ ~~at the option of the qualifying facility:~~

1. be made at the time the costs are incurred; or

2. ~~be amortized over the life of the contract; or~~

~~3.~~ be made according to any schedule agreed upon by the qualifying facility and the utility.

H. Types of power to be offered. The utility shall offer maintenance, interruptible, supplementary, and back-up power to the qualifying facility upon request.

I. Metering. The utility shall meter the qualifying facility to obtain the data necessary to fulfill its reporting requirements to the commission as specified in 4 MCAR § 3.0453. The qualifying facility shall pay for the requisite metering as an interconnection cost ~~unless the qualifying facility is operating under net energy billing. In that case, the utility shall provide the second meter without cost to the qualifying facility~~.

J. Discontinuing sales during emergency. The utility may discontinue sales to the qualifying facility during a system emergency, if the discontinuance and recommencement of service is not discriminatory.

K. Interconnection plan. The utility may~~,~~ ~~prior to interconnection,~~ require the qualifying facility to submit an interconnection plan not more than 30 days prior to interconnection in order to facilitate interconnection arrangements. If such a plan is required, it shall include no more than:

1. technical specifications of equipment;

2. proposed date of interconnection; and

3. projection of net output or consumption by the qualifying facility when available.

4 MCAR § 3.0455 Rates for sales.

A. Rate to be governed by tariff. Except as otherwise provided in B., rates for sales to a qualifying facility shall be governed by the applicable tariff for the class of electric utility customers to which the qualifying facility would belong were it not a qualifying facility.

B. Petition for specific rates. Any qualifying facility or utility may petition the commission for establishment of specific rates for supplementary, maintenance, back-up, or interruptible power.

4 MCAR § 3.0456 Standard rates for purchases.

A. General. For qualifying facilities with capacity of 100 kilowatts or less, standard rates apply. Qualifying facilities with capacity of more than 100 kilowatts may negotiate contracts with the utility or may be compensated under standard rates if they make commitments to provide firm ~~electric~~ power. The utility shall make available three types of standard rates, described in B., C., and D. The qualifying facility shall choose interconnection under one of these rates, and shall specify its choice in the written contract required in 4 MCAR § 3.0454 B. Any net credit to the qualifying facility shall, at its option, be credited to its account with the utility or returned by check within 15 days of the billing date. The option chosen shall be specified in the written contract required in 4 MCAR § 3.0454 B. Qualifying facilities remain responsible for any monthly service charges and demand charges specified in the tariff under which they consume electricity from the utility.

B. Net energy billing rate.

1. The net energy billing rate is available only to qualifying facilities with capacity of 40 kilowatts or less which choose not to offer electric power for sale on a time-of-day basis.

2. The utility shall bill the qualifying facility for the excess of energy supplied by the utility above energy supplied by the qualifying facility during each billing period according to the utility's applicable retail rate schedule.

3. When the energy generated by the qualifying facility exceeds that supplied by the utility during a billing period, the utility shall compensate the qualifying facility for the excess energy under either a. or b.

a. For a qualifying facility with capacity of 20 kilowatts or less, compensation shall be at the energy rate of the rate schedule applicable to sales to the qualifying facility. If the rate schedule consists of more than one block, the lowest per kilowatt-hour rate shall apply. The compensation shall reflect changes to the energy rate due to the operation of the utility's fuel adjustment clause.

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b. For a qualifying facility with capacity of more than 20 kilowatts but not greater than 40 kilowatts, compensation shall be as specified under C.3.

C. Simultaneous purchase and sale billing rate.

1. The simultaneous purchase and sale rate is available only to qualifying facilities with capacity of 40 kilowatts or less which choose not to offer electric power for sale on a time-of-day basis.

2. The qualifying facility shall be billed for all energy and capacity it consumes during a billing period according to the utility's applicable retail rate schedule.

3. The utility shall purchase all energy ~~generated by the qualifying facility~~ and capacity which is made available to it by the qualifying facility. At the option of the qualifying facility, its entire generation shall be deemed to be made available to the utility. Compensation to the qualifying facility shall be the sum of a. and b.

a. The energy component shall be the appropriate system average incremental energy costs shown on Schedule A; or if the ~~purchasing utility is nongenerating, the energy rate shown on Schedule G~~ generating utility has not filed Schedule A, the energy component shall be the energy rate of the retail rate schedule, applicable to the qualifying facility, filed in lieu of Schedules A and B; or if the nongenerating utility has not filed Schedule A, the energy component shall be the energy rate shown on Schedule G;

b. If the qualifying facility provides firm power to the utility, the capacity component shall be the utility's net annual avoided capacity cost per kilowatt-hour averaged over all hours ~~as calculated according to 4 MCAR § 3.0452 C.4. or C.5. as appropriate; or if the purchasing utility is nongenerating, the capacity component shall be the capacity cost per kilowatt shown on Schedule G, divided by the number of hours in the billing period~~ shown on Schedule B; or if the generating utility has not filed Schedule B, the capacity component shall be the demand charge per kilowatt (if any) of the retail rate schedule, applicable to the qualifying facility, filed in lieu of Schedules A and B, divided by the number of hours in the billing period; or if the nongenerating utility has not filed Schedule B, the capacity component shall be the capacity cost per kilowatt shown on Schedule G, divided by the number of hours in the billing period. If the qualifying facility does not provide firm power to the utility, no capacity component shall be included in the compensation paid to the qualifying facility.

D. Time-of-day purchase rates.

1. Time-of-day rates are required for qualifying facilities with capacity greater than 40 kilowatts and less than or equal to 100 kilowatts, and they are optional for qualifying facilities with capacity less than or equal to 40 kilowatts. Time-of-day rates are also optional for qualifying facilities with capacity greater than 100 kilowatts if these qualifying facilities provide firm ~~electric~~ power.

2. The qualifying facility shall be billed for all energy and capacity it consumes during each billing period according to the utility's applicable retail rate schedule. Any utility rate-regulated by the commission may propose time-of-day retail rate tariffs which require qualifying facilities that choose to sell power on a time-of-day basis to also purchase power on a time-of-day basis.

3. The utility shall purchase all energy ~~generated~~ and capacity which is made available to it by the qualifying facility. Compensation to the qualifying facility shall be the sum of a. and b.

a. The energy component shall be the appropriate on-peak and off-peak system incremental costs shown on Schedule A; or if the ~~purchasing utility is nongenerating, the energy rate shown on Schedule G~~ generating utility has not filed Schedule A, the energy component shall be the energy rate of the retail rate schedule, applicable to the qualifying facility, filed in lieu of Schedules A and B; or if the nongenerating utility has not filed Schedule A, the energy component shall be the energy rate shown on Schedule G.

b. If the qualifying facility provides firm power to the utility, the capacity component shall be the utility's net annual avoided capacity cost per kilowatt-hour averaged over the on-peak hours as ~~calculated according to 4 MCAR § 3.0452 C.4. or C.5. as appropriate~~ shown on Schedule B; or if the ~~purchasing utility is nongenerating, the capacity cost per kilowatt shown on Schedule G, divided by the number of hours in the billing period~~ generating utility has not filed Schedule B, the capacity component shall be the demand charge per kilowatt (if any) of the retail rate schedule, applicable to the qualifying facility, filed in lieu of Schedules A and B, divided by the number of on-peak hours in the billing period; or if the nongenerating utility has not filed Schedule B, the capacity component shall be the capacity cost per kilowatt shown on Schedule G, divided by the number of on-peak hours in the billing period. The capacity component shall apply only to deliveries during on-peak hours. If the qualifying facility does not provide firm power to the utility, no capacity component shall be included in the compensation paid to the qualifying facility.

4 MCAR § 3.0457 Negotiated rate for purchases.

A. Contracts negotiated by customer. ~~For~~ Except as provided in D., a qualifying ~~facilities~~ facility with capacity greater than 100 kilowatts~~, the customer may~~ shall negotiate a contract with the utility~~. The contract shall set~~ setting the applicable rates for payments to the customer of avoided capacity and energy costs.

B. Amount of capacity payments; considerations. The qualifying facility shall be entitled to the full avoided capacity costs of the utility. The amount of ~~such~~ capacity payments shall be determined through consideration of:

1. The capacity factor of the qualifying facility;
2. The cost of the utility's avoidable capacity;
3. The length of the contract term;
4. Reasonable scheduling of maintenance;
5. The willingness and ability of the qualifying facility to provide firm power during system emergencies;
6. The willingness and ability of the qualifying facility to allow the utility to dispatch its generated energy;
7. The willingness and ability of the qualifying facility to provide firm capacity during system peaks;
8. The sanctions for noncompliance with any contract term; and
9. The smaller capacity increments and the shorter lead times available when capacity is added from the qualifying facilities.

C. Full avoided energy costs. The qualifying facility shall be entitled to the full avoided energy costs of the utility. The costs shall be adjusted as appropriate to reflect line losses.

D. Qualifying facilities of greater than 100 kilowatts. Nothing in A.-C. prevents a utility from connecting qualifying facilities of greater than 100 kilowatts under its standard rates.

4 MCAR § 3.0458 Utility treatment of costs. All purchases from qualifying facilities with capacity of 100 kilowatts or less, and purchases of energy from qualifying facilities with capacity of over 100 kilowatts shall be considered an energy cost in calculating an electric utility's fuel adjustment clause.

4 MCAR § 3.0459 Wheeling and exchange agreements. For all qualifying facilities with capacity of 30 kilowatts or greater, the utility shall, at the qualifying facility's request or with its consent, provide wheeling or exchange agreements whenever practicable to sell the qualifying facility's output to any other Minnesota utility that anticipates or plans generation expansion in the ensuing ten years. The following provisions apply unless the qualifying facility and the utility to which it is interconnected agree otherwise.

A. Inter-utility payment; wheeling. The utility to which the qualifying facility is interconnected shall pay any reasonable wheeling charges from other utilities arising from the sale of the qualifying facility's output.

B. Inter-utility payment; energy and capacity. Within 30 days of receipt, the utility ultimately receiving the qualifying facility's output shall pay its resulting full avoided capacity and energy costs by remittance to the utility with which the qualifying facility is interconnected.

C. Payment to qualifying facility. Within 15 days of receiving payment under B., the utility with which the qualifying facility is interconnected shall send the qualifying facility the payment it has received less the total charges it has incurred under A. and its own reasonable wheeling costs.

4 MCAR § 3.0460 Disputes. In case of a dispute between ~~an electric~~ a utility and a qualifying facility or an impasse in the negotiations between them, either party may request the commission to determine the issue. When the commission makes the determination, the burden of proof shall be on the utility.

4 MCAR § 3.0461 Notification to customers.

A. Contents of written notice. Within 60 days following each annual filing required by 4 MCAR § 3.0452, every ~~electric~~ utility shall furnish written notice to each of its customers:

1. That the utility is obligated to interconnect with and purchase electricity from cogenerators and small power producers;

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2. That the utility is obligated to provide ~~customer~~ information to all interested persons free of charge upon request; and

3. That any disputes over interconnection, sales, and purchases are subject to resolution by the commission upon complaint.

The notice shall be in language and form approved by the commission.

B. ~~Customer~~ Availability of information. Each utility shall publish ~~customer~~ information that shall be available to all interested persons free of charge upon request. Such ~~customer~~ information shall include at least the following:

1. A statement of rates, terms, and conditions of interconnections;

2. A statement of technical requirements;

3. A sample contract containing the applicable terms and conditions;

4. Pertinent rate schedules;

5. The title, address, and telephone number of the department of the utility to which inquiries should be directed; and

6. The statement: "The Minnesota Public Utilities Commission is available to resolve disputes upon written request," and the address and telephone number of the commission.

4 MCAR § 3.0462 Interconnection guidelines.

A. Denial of interconnection application. Except as hereinafter provided, a utility shall interconnect with a qualifying facility that offers to make energy or capacity available to the utility. The utility may refuse to interconnect a qualifying facility with its power system until the qualifying facility has properly applied under 4 MCAR § 3.0454 K. and has received approval from the utility. The utility shall withhold approval only for failure to comply with applicable utility rules not prohibited by 4 MCAR §§ 3.0480-3.0562, or governmental rules or laws. The utility shall be permitted to include in its contract reasonable technical connection and operating specifications for the qualifying facility.

B. Notification of telephone utility and cable television firm. The electric utility shall notify the appropriate telephone utility and cable television firm when a qualifying facility is to be interconnected with its system. This notification shall be as early as practicable to permit coordinated analysis and testing before interconnection, if considered necessary.

C. Separate distribution transformer; when required. The utility may require a separate distribution transformer for the qualifying facility if necessary either to protect the safety of employees or the public or to keep service to other customers within prescribed limits. ~~Ordinarily, this requirement should not be necessary for an induction type generator with a capacity of five kilowatts or less, or other units with a capacity of ten kilowatts or less that utilize line commutated inverters.~~

D. Limiting capacity of single-phase generators; when permitted. If necessary, to avoid the likelihood that a qualifying facility will cause problems with the service of other customers, the utility may limit the capacity and operating characteristics of single-phase generators in a way consistent with the utility limitations for single-phase motors. ~~Ordinarily, single phase generators should be limited to a capacity of ten kilowatts or less.~~

E. ~~Automatic~~ Isolation of generator. ~~The utility may require that the qualifying facility have a system for automatically~~ Each qualifying facility shall have a lockable, manual disconnect switch capable of isolating the generator from the utility's system ~~upon loss of the utility's supply~~ readily accessible to the utility.

F. Discontinuing parallel operation. The utility may require that the qualifying facility discontinue parallel generation operation when necessary for system safety.

G. Permitting entry. The qualifying facility shall make equipment available and permit electric and communication utility personnel to enter the property at reasonable times to test isolation and protective equipment, to evaluate the quality of power delivered to the utility's system, and to test to determine whether the qualifying facility's generating system is the source of any electric service or communication systems problems.

H. Maintaining power output. The power output of the qualifying facility shall be maintained so that frequency and voltage are compatible with normal utility service and do not cause that service to fall outside the prescribed limits of commission rules and other standard limitations.

I. Varying voltage levels. The qualifying facility shall be operated so that variations from acceptable voltage levels and other service-impairing disturbances do not adversely affect the service or equipment of other customers, and so that the facility does not produce ~~undesirable~~ levels of harmonics ~~in the utility power supply~~ which exceed the prescribed limits of commission rules or other levels customarily accepted.

J. Safety. The qualifying facility shall be responsible for providing protection for the installed equipment and shall adhere to all applicable national, state, and local codes. ~~The design and configuration of certain cogeneration and small power production~~

~~equipment might require an isolation transformer as part of the qualifying facility installation for safety and protection of the qualifying facility equipment.~~

K. Right of appeal for excessive technical requirements. The qualifying facility has the right of appeal to the commission when it considers individual technical requirements excessive.

~~4 MCAR § 3.0463 Existing contracts. Any interconnection contracts executed between a utility and a qualifying facility before the effective date of 4 MCAR §§ 3.0450-3.0463 may, at the option of either party, be canceled and replaced by interconnection contracts under 4 MCAR §§ 3.0450-3.0463.~~

SUPREME COURT

Opinions Filed Friday, April 8, 1983

Compiled by Wayne Tschimperle, Clerk

C1-82-1226 James H. Johnson, petitioner, Appellant, v. State of Minnesota. Olmsted County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

C9-82-1247 State of Minnesota v. Allan Roy Deschampe, Appellant. Cook County.

Particularly cruel way in which defendant committed offense justified durational departure from presumptive sentence established by Minnesota Sentencing Guidelines.

Defendant is entitled to receive credit against his prison sentence for nights spent in jail as a condition of his release while awaiting trial.

Affirmed as modified. Amdahl, C. J.

C9-82-1264 Edward Owens, petitioner, Appellant, v. State of Minnesota. Hennepin County.

Postconviction court properly denied petition seeking resentencing according to Minnesota Sentencing Guidelines.

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

C6-82-1366 State of Minnesota v. Barry Ronald Gross, Appellant. Ramsey County.

Absent aggravating circumstances, trial court cannot depart from presumptive sentence established by Minnesota Sentencing Guidelines.

Affirmed as modified. Amdahl, C. J. Dissenting, Kelley and Peterson, JJ.

C0-82-21 State of Minnesota v. Lonnie Austin, Appellant. Hennepin County.

Defendant's use of deadly force was not justified.

The trial court's instruction on the law of retreat was correct.

The evidence was sufficient to support a finding of premeditation, necessary to the first-degree murder conviction.

Affirmed. Peterson, J.

C5-80-051915 State of Minnesota v. John Lawrence Daniels, Appellant. Hennepin County.

The trial court did not abuse its discretion in denying a jury request to review specified testimony of two police officers.

Failure of the prosecutor to disclose a police report prior to trial and subsequent use of the report to impeach a defense witness on cross-examination violated Minn. R. Crim. P. 9.01, subd. 1 (1) (a). The trial court's denial of a mistrial motion, however, was not an abuse of discretion and was not reversible error.

Improper closing argument by prosecutor did not constitute reversible error because defense counsel made no objection and the conduct did not likely play a substantial part in influencing the jury to convict.

The evidence was sufficient to support convictions of first-degree murder and attempted first-degree murder.

Affirmed. Yetka, J.

C2-82-697 State of Minnesota v. Greg Lehmann, Appellant. Ramsey County.

Evidence was sufficient to support defendant's conviction of criminal sexual conduct in the first degree.

Record on appeal fails to support defendant's claims (a) that prosecutor improperly discouraged state witnesses from talking with defense counsel or a defense investigator and (b) that defense counsel failed to represent defendant adequately.

Affirmed. Yetka, J.

C0-82-813, C7-82-887 Evelyn Hutchins, Widow of Donald Hutchins, Deceased Employee, Respondent (C0-82-813), Relator (C7-82-887), v. Murphy Motor Freight Lines, Inc., and Carriers Insurance Company, Relators (C0-82-813), Respondents (C7-82-887). Workers' Compensation Court of Appeals.

Where Minn. Stat. § 176.041, subd. 5 (1971) provided that the statutory tests in subdivisions 2 and 3 of that section were the sole determinants of extraterritorial jurisdiction under the Workers' Compensation Act, the repeal of subdivision 5 reinstates the common-law business localization test.

An interstate trucking company headquartered in Minnesota with more than 15 terminals in the state and regularly dispatching a non-resident employee from a Minnesota terminal is subject to jurisdiction under the business localization test for a workers' compensation claim arising out of an accident suffered by that employee in Wisconsin.

Affirmed. Yetka, J.

C9-82-1054 State of Minnesota v. Wayne William Willis, Appellant, and Alexina M. Endrizzi, Appellant. Olmsted County.

Minn. Stat. § 169.121, subd. 2 (b) (1982), which permits the introduction of evidence of the absence of tests in prosecutions for driving while under the influence, is not a violation of a defendant's constitutional privilege against self-incrimination.

Nor is Minn. Stat. § 169.12, subd. 2 (b) (1982), a usurpation of the powers reserved to the judicial branch under Minn. Const. art. 3, § 1.

That portion of Minn. Stat. § 169.121, subd. 3 (1982), which makes a violation of Minn. Stat. § 169.121 within five years a prior conviction under that section a gross misdemeanor, is not an impermissible *ex post facto* law under either the state or federal constitutions, Minn. Const. art. 1, § 11, and U.S. Const. art. 1, § 10.

Affirmed. Scott, J. Conc. spec., Peterson, J., Amdahl, C. J. and Simonett, J.

CX-81-1070 Norma Anne Ronnkvist v. Ake Elis Ingemar Ronnkvist, Appellant, Thomas Strahan, Defendant. Carver County.

The duty of parties to a marital dissolution proceeding to make full and accurate disclosure of all assets and liabilities extends until formal entry of the decree, and breach of that duty constitutes fraud sufficient to set aside the decree.

Evidence on the record does not support the award of $106,250.

The goal of placing plaintiff in the position she would have held had defendant made full disclosure would be accomplished by an award to the plaintiff of $82,250, which is supported by the record.

Affirmed in part; reversed in part and remanded. Wahl, J.

C4-81-1341 State of Minnesota v. William Whisonant, Appellant. Ramsey County.

Evidence was sufficient to establish defendant's guilt of both murder in the first degree and assault in the second degree.

Defendant received a fair trial.

Defendant is not entitled to vacation of the lesser conviction on the ground that it is barred by Minn. Stat. § 609.04 (1982) or the double jeopardy clause of the federal constitution.

Affirmed. Wahl, J.

C8-82-574 State of Minnesota v. Ralph Wick, Appellant. Itasca County.

Evidence was sufficient to establish that defendant committed gross misdemeanor offense of intentionally interfering with police officer in the performance of his official duties, and defendant is not entitled to a new trial on the basis of either unobjected to misstatement of the evidence by the prosecutor in his closing argument or unobjected to error by the trial court in its instruction.

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 Pollution Control Agency
Water Quality Division

Notice of Request for Proposals (RFP) for Evaluation of Alternative Methods of Financing Municipal Wastewater Treatment Facilities Construction

The Minnesota Pollution Control Agency, Division of Water Quality, is seeking proposals for a Professional/Technical Services cost reimbursement contract for an Evaluation of Alternative Methods of Financing Municipal Wastewater Treatment Facilities Construction, not to exceed $75,000. The evaluation study is to assist the agency in preparing draft legislation regarding the various options the state may want to consider facilitating through legislation and/or funding to assist municipalities in funding all or part of the municipal wastewater treatment facilities needed to comply with State pollution standards.

The evaluation study must include the preparation of a report to analyze the various options the state legislature may want to consider involving modification of current statutes pertaining to allowable municipal financial methods to defray the cost of municipal wastewater treatment facilities; or the modification of the current 15% state matching grant or the establishment of some other financial aid pertaining to municipal wastewater treatment facilities. The report should analyze current federal, state and local laws pertaining to this area and propose alternatives that may be necessary for facilitating local options for paying for these facilities.

Prospective responders who have any questions regarding this Request for Proposals, or who desire a copy of the detailed Request for Proposals, may call or write Perry T. Beaton, Assistant Division Director, Division of Water Quality, Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113 (Telephone No. 612/296-7354). All proposals must be sent to and received by Perry T. Beaton, at the above address, not later than 4:30 p.m. May 9, 1983.

April 1, 1983

Sandra S. Gardebring
Executive Director

Department of Public Welfare
St. Peter State Hospital

Notice of Request for Proposals for Medical Services

Notice is hereby given that the St. Peter State Hospital, Mental Health Bureau, Department of Public Welfare, is seeking the services which are to be performed as requested by the Administration of St. Peter State Hospital. Contracts will be written for the period of July 1, 1983 through June 30, 1984.

1) Services of a consulting psychologist to include providing psychological evaluations and examinations for patients at the St. Peter State Hospital. Preparation and presentation of lectures, consulting with staff members, teaching member of the psychology staff with regard to testing and psychological treatment. Estimated amount of contract will not exceed $16,800.

2) Services of an individual who specializes in internal medicine, to provide medical evaluations of mentally ill and chemically dependent patients at St. Peter State Hospital as well as medical examinations and care of the population at Minnesota Security Hospital. This individual will provide primary care and act as a consultant to staff physicians. The estimated amount of the contract will not exceed $26,400.

3) Services of a consulting psychiatrist to provide psychiatric evaluations and make recommendations with regard to psychotropic medications at St. Peter State Hospital. Individual will aid staff in the special area of geriatric psychopharmacology and geriatric psychiatry. The estimated amount of the contract will not exceed $21,000.

4) Services of a consulting psychiatrist to provide psychiatric assessment, with emphasis on use of psychotropic medications in controlling behavior, follow-up reviews and feedback reviews for developmentally disabled clients at Minnesota Valley Social Adaptation Center (MVSAC). Also, to be responsible for medication for residents at the Minnesota Security Hospital. The estimated amount of the contract will not exceed $27,000.

5) Services of an individual to provide general psychiatric care to patients on an assigned unit at Minnesota Security Hospital, including diagnosis, treatment, monthly progress notes and periodic assessments. The estimated amount of the contract will not exceed $14,000.

6) Services of a radiologist to study, interpret and dictate findings of x-ray films at the St. Peter State Hospital. The estimated amount of the contract will not exceed $12,000.

Responses must be received by May 6, 1983. Direct inquiries to:

Thomas R. Bolstad
Senior Accounting Supervisor
St. Peter State Hospital Complex
100 Freeman Drive
St. Peter, Mn. 56082
Phone: (507) 931-7116

Department of Public Welfare
Fergus Falls State Hospital

Notice of Request for Proposals for Services to be Performed on a Contractual Basis

Notice is hereby given that the Fergus Falls State Hospital, Mental Health Bureau, Department of Public Welfare, is seeking the following services which are to be performed as requested by the Administration of the Fergus Falls State Hospital. Contracts may be written for the period July 1, 1983, through June 30, 1984, with option to renew for one year period ending June 30, 1985; or they may be written for the period July 1, 1983, through June 30, 1985.

1) Services of a local organization to provide sheltered (handicapped) workers to work in the Fergus Falls State Hospital's industries in a learning experience setting. The organization shall provide necessary administrative and overhead functions related to evaluation of productivity of workers, placement, payroll recordkeeping, etc. The estimated amount of the contract will not exceed a total of $35,000.00 for the two-year period.

2) Services of a radiologist, including the provision of facilities, equipment and supplies, to interpret X-rays as needed by the Fergus Falls State Hospital's X-ray Department. The estimated amount of the contract will not exceed a total of $26,000.00 for the two-year period.

3) Services of a pathologist, including the provision of necessary facilities, equipment and supplies, to perform pathological services and autopsies as needed by the Fergus Falls State Hospital. Also to provide a consultant to review hospital's laboratory tests, check quality control and provide consultation and supervision to the hospital's laboratory. The estimated amount of the contract should not exceed a total of $40,000.00 for the two year period.

4) Services of qualified psychiatrists trained and experienced in all areas of human services for the mentally ill, mentally retarded and chemically dependent to give consultation for individual resident treatment, staff education and program development at the Fergus Falls State Hospital. Separate proposals accepted for:

a) A local mental health center—the estimated amount of the contract will not exceed a total of $28,000.00 for the two year period.

b) A private psychiatric association—the estimated amount of the contract will not exceed a total of $12,000.00.

Responses must indicate whether for one year with option to renew, or for two years. Responses must be received by 11:00 a.m., May 9, 1983.

Direct inquiries or proposals to:

Dennis Zilmer, Accounting Supervisor, Sr.
Fergus Falls State Hospital
Fergus Falls, MN 56537
Phone: (218) 739-7378

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 Cable Communications Board

Notice of Availability of the Preliminary Request for Applications for Designation of the Twin Cities Metropolitan Area Regional Cable Channel Entity

The Minnesota Cable Communications Board (MCCB) herein gives notice of availability of the preliminary request for applications for designation as the entity for programming and facilitating use of the regional cable channel in the 7-county Twin Cities metropolitan area.

The Board is making preparations for designation of the regional cable channel entity as provided in Minnesota Statutes § 238.05, Subdivision 2 (c) and (d).

Procedures for MCCB activation of the regional cable channel, which will be on the standard VHF channel 6 on all Twin Cities metropolitan area cable communications systems, and for designation of the regional cable channel entity are set forth in 4 MCAR §§ 4.223-4.224 (Minnesota Code of Agency Rules).

A copy of the preliminary request for regional channel entity designation applications are available for public inspection during normal business hours in the MCCB offices at 500 Rice Street (at University Ave.) in St. Paul. A copy of the preliminary document may also be obtained through the mail by calling the Board office at (612) 296-2545, or by writing to the Minnesota Cable Communications Board, 500 Rice Street, St. Paul, MN 55103.

Written comments concerning the Board's preliminary request for applications must be submitted to Rochelle Barnhart, Chairman, Minnesota Cable Communications Board, 500 Rice Street, St. Paul, MN 55103 no later than May 1, 1983.

Oral comments concerning these matters will be received by the Board at a public hearing to be held during its regular meeting on May 13, 1983, 500 Rice Street (at University Ave.), St. Paul, commencing at 9:00 a.m.

The deadline for receipt of applications for entity designation is tentatively set for 3:30 p.m., June 1, 1983.

Department of Administration Cable Communications Board

Notice of Issuance of an Order for Interconnection of Cable Communications Systems within the 7-County Twin Cities Metropolitan Area

This is notice of issuance by the Minnesota Cable Communications Board (MCCB) of an order on April 8, 1983 for interconnection of cable communications systems in the Twin Cities metropolitan area.

The order directs all cable communications systems operating in the metropolitan area, as defined in Minnesota Statutes § 473.121, subds. 2 and 4, to either individually or cooperatively provide facilities for interconnection of cable systems in the area, pursuant to Minn. Stat. § 238.05, subd. 2 (c) and Minn. Stat. § 238.06, subd. 5.

The order stipulates that the interconnection facilities must provide at least one path for at least one 6 MHz video channel which will be transmitted from at least one centrally-located point in the metropolitan area to all cable system head end facilities serving a cable communications system located in whole or part within the metropolitan area for carriage of the regional channel defined in MCCB rule 4 MCAR § 4.221 D. over all cable systems in the area no later than July 1, 1984. The interconnection facilities must comply with 2-way service requirements specified in MCCB rule § 4.222 D. or in rule 4 MCAR § 4.225 A. 3. no later than January 1, 1986. All interconnection facilities must comply with the technical standards and procedures specified in MCCB rule 4 MCAR § 4.226.

The cable system interconnection facilities will be provided under procedures in MCCB rule 4 MCAR § 4.222 (interim interconnection) or in rule 4 MCAR § 4.225 (interconnection through facilities of an interconnect entity).

Information required in MCCB rule 4 MCAR § 4.222 A. 1. or in rule 4 MCAR § 4.225 B. must be submitted to the Minnesota Cable Communications Board at 500 Rice Street, St. Paul, MN 55103 no later than July 1, 1983.

Copies of the Findings of Fact, Conclusions and Order issued by the MCCB are available at the above address. Copies may also be requested by calling (612) 296-2545.

Department of Energy, Planning and Development
Planning Division
Office of Local Government

Notice of Meeting

The Juvenile Justice Advisory Committee will meet on Friday, April 22, 1983 at 9:00 a.m. in the Conference Room in the Cable Communications Building, 500 Rice Street, St. Paul, Minnesota.

State Board of Investment

Notice of Regular Meetings of the State Board of Investment and the Investment Advisory Council

The State Board of Investment will meet on Wednesday, April 27, 1983 at 9:45 a.m. in the Weyerhauser Room, Minnesota Historical Society Building, 690 North Cedar Street, Saint Paul.

The Investment Advisory Council will meet at 7:30 a.m. on Wednesday, April 27, 1983 in the MEA Building Conference Room 41 Sherburne, Saint Paul.

Minnesota Teachers Retirement Association

Meeting Notice

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Thursday, May 5, 1983, at 1 p.m. in Room 302 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota to consider matters which may properly come before the Board.

Minnesota Pollution Control Agency

Notice of Public Meeting Regarding Revisions to Minnesota's State Implementation Plan

Notice is hereby given, that on May 24, 1983, the Minnesota Pollution Control Agency (hereinafter referred to as "agency") will hold a regularly scheduled agency meeting in the Agency Board Room, located at 1935 West County Road B2, Roseville, Minnesota, 55113. The agency is currently scheduled to consider, among other things, a proposed revision to the State Implementation Plan (hereinafter referred to as "SIP") for the inclusion of revised operating permits that will require more stringent control of Total Suspended Particulate Matter (TSP) emissions from Butler Taconite, Nashwauk; National Steel Pellet, Keewatin; and Eveleth Taconite, Eveleth.

Notice is also hereby given that the public is invited to attend the agency meeting on May 24, 1983, and to comment at that meeting on the proposed SIP revision. Written comment on the revised operating permits and the SIP revision may be

submitted prior to the meeting and should be addressed to Douglas M. Benson, Division of Air Quality, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota, 55113.

The May 24, 1983, agency meeting will be held in the Agency Board Room, at the address noted above and will begin at 9:00 a.m. An agenda for the meeting will be available by May 13, 1983. Questions regarding the proposed revision or the agency meeting should be directed to Douglas M. Benson at the address noted above or at 612-296-7743. A copy of the agenda and operating permits may be obtained from Jayne Stilwell, also at the address noted above or at 612-296-7280.

In general, the purpose of revising the SIP is to satisfy the requirements of the Clean Air Act, 42 U.S.C. §§ 7410 and 7502 and to ensure that air quality in the State of Minnesota meets the national ambient air quality standard for TSP. The specific purposes of the operating permits are to require operation, maintenance, and materials handling at the affected facilities in such a manner as to control emissions of TSP. Copies of the proposed SIP revision and revised operating permits are available for public review during regular office hours at the above noted address.

Dated this 8th day of April, 1983.

Sandra S. Gardebring
Executive Director

STATE OF MINNESOTA

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

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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.

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