

83 Oct. 17

STATE REGISTER

STATE OF MINNESOTA



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VOLUME 8, NUMBER 16

October 17, 1983

Pages 661-716



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 8			
17	Monday Oct 10	Monday Oct 17	Monday Oct 24
18	Monday Oct 17	Monday Oct 24	Monday Oct 31
19	Monday Oct 24	Monday Oct 31	Monday Nov 7
20	Monday Oct 31	Monday Nov 7	Monday Nov 14

*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. § 14.46. 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*.

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CONTENTS

MCAR AMENDMENTS AND ADDITIONS

Inclusive listing for Issues 14-16. 664

PROPOSED RULES

Agriculture Department

Office of the Commissioner

Proposed Temporary Rules Governing Administration of Agricultural Development Grants [notice of intent to adopt temporary rules] 665

Agriculture Department

Plant Industry Division

Proposed Amendments to Rules Governing Seed Potato Certification [notice of intent to adopt rules without a public hearing] 670

Energy and Economic Development Department

Energy Division

Proposed Temporary Rules for the Administration of the Public School Energy Conservation Investment Loan Program [request for public comment] 673

Natural Resources Department

Proposed Amendment to Rules Governing Snowmobiles [notice of intent to adopt rules without a hearing] 677

Pollution Control Agency

Air Quality Division

Proposed Amendment to Rule Governing the Agency's Permit Program for the Growth or Expansion of Industry in Nonattainment Areas [notice of intent to amend a rule without a public hearing and notice of intent to amend the State Implement Plan]. 678

Pollution Control Agency

Proposed Amendment of Rule APC 2, Definitions, Abbreviations, Applicability of Standards, Access to Premises, Variances, Circumvention, Severability, to be Retitled Definitions, Abbreviations, Applicability of Standards, Opacity Standard Adjustment, and Circumvention [notice of intent to adopt amendments to rules without a public hearing] 682

ADOPTED RULES

State Board of Education

Department of Education

Special Services Division

Adopted Temporary Rule Governing Public Library Construction Grants 692

Pollution Control Agency

Adopted Revision to Rule Relating to the Administration of Federal Grant Funds and State Grant and Loan Funds for Municipal Sewage Treatment Projects 694

Public Welfare Department

Bureau of Income Maintenance

Adopted Temporary Rules Governing the General Assistance Program and Notification and Referral to the Minnesota Emergency Employment Development Act Program. 698

TAX COURT

State of Minnesota, County of Dakota, Tax Court, Regular Division. Leo E. and Sandra Wolter, Appellants, v. The Commissioner of Revenue, Appellee. In the Matter of an Appeal from the Commissioner's Order dated December 14, 1982 Relating to Individual Income Tax for the

Calendar Year 1977. Docket No. 3759. Order Dated October 14, 1983 705

SUPREME COURT

Decisions Filed Friday, October 7, 1983

C3-82-630, C4-82-846 In the Matter of the Proceedings to Enforce Payment of the Tax on Mineral Interests Assessed Pursuant to Minn. Stat. § 273.13, subdivision 2a, and Remaining Delinquent on the First Monday in January, 1977, 1978, and 1979, for the County of St. Louis, State of Minnesota. County of St. Louis, Respondent and Minnesota Chippewa Tribe, Respondent, v. The Federal Land Bank of St. Paul. Tax Court 707

STATE CONTRACTS

Administration Department

Provision of Cost-Efficient Travel Services to State Agencies 707

Economic Security Department

Establishment of New Displaced Homemakers Programs 707

Health Department

Services for Children with Handicaps Division

Psychological Services for Children with Handicaps (contracts with persons to provide services at field clinics). 708

Natural Resources Department

Water Division

Professional Services to Prepare a Guide for Emergency Preparedness for Dam Failures 708

State Designer Selection Board

To Architects and Engineers Registered in Minnesota. 709

OFFICIAL NOTICES

Commerce Department

Financial Institutions Division

Bulletin No. 2823: Maximum Lawful Rate of Interest for Mortgage and Contracts for Deed for the Month of October 1983 711

Economic Security Department

Outside Opinion Sought on Proposed Rules Governing the Implementation of the Work Requirements of Laws 1983, Chapter 312, Article 8, §§ 10, 11, 12 and 13 711

Environmental Quality Board

Power Plant Siting and Transmission Line Routing Program

Notice of Annual Hearing 712

Ethical Practices Board

Advisory Opinion #84 712

Health Department

Health Systems Division

Outside Opinion Sought on Proposed Temporary Rule Governing the Relocation of Residents of Nursing Homes and Certified Boarding Care Homes 713

Labor and Industry Department

Workers' Compensation Division

Outside Information and Opinions Sought on Proposed Rules Governing Workers' Compensation Practice and Procedure 713

Minnesota State Retirement System

Notice of Regular Meeting, Board of Directors 713

NOTICE

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

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

The **PROPOSED RULES** section contains:

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

The **ADOPTED RULES** section contains:

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

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* 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 spring of 1984. 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	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issue 27-38, inclusive	

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

MCAR AMENDMENTS AND ADDITIONS

TITLE 3 AGRICULTURE

Part 1 Agriculture Department

3 MCAR §§ 1.0129-1.0130, 1.0132-1.0133, 1.0135
(proposed)..... 670
3 MCAR §§ 1.4060 [Temp]-1.4070 [Temp] (proposed) 665

TITLE 5 EDUCATION

Part 1 Education Department

5 MCAR §§ 1.0120-1.0122, 1.01222-1.01224, 1.0125, 1.01226
1.01228-1.01229, 1.01232-1.01234, 1.0124, 1.0126-1.0127
(adopted)..... 596
5 MCAR § 1.0807 [Temp] (adopted) 692

TITLE 6 ENVIRONMENT

Part 1 Natural Resources Department

6 MCAR § 1.0057 (proposed) 677

Part 2 Energy and Economic Development

6 MCAR §§ 2.2500-2.2509 (proposed)..... 673

Part 4 Pollution Control Agency

APC 2 (6 MCAR § 4.002) (proposed) 682
6 MCAR § 4.0041 (proposed) 678
6 MCAR § 4.8034 (adopted) 694

TITLE 8 LABOR

Part 1 Labor and Industry Department

8 MCAR §§ 1.7200-1.7209 (adopted)..... 622
8 MCAR §§ 1.9001 [Temp]-1.9023 [Temp] (proposed) 562

TITLE 11 PUBLIC SAFETY

Part 2 Corrections Department

11 MCAR §§ 2.001-2.012 (adopted)..... 601

TITLE 12 SOCIAL SERVICE

Part 2 Public Welfare Department

12 MCAR §§ 2.04422 [Temp], 2.05501 [Temp]-[2.05509 Temp]
(adopted)..... 698
12 MCAR § 2.264 [Temp] (adopted) 602

Part 3 Housing Finance Agency

12 MCAR § 3.038 (proposed) 621
12 MCAR §§ 3.170-3.174 (adopted)..... 646

TITLE 13 TAXATION

Part 1 Revenue Department

13 MCAR §§ 1.0010-1.0014 (withdrawn) 596

PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, 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 §§ 14.13-14.20 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. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Agriculture Office of the Commissioner

Proposed Temporary Rules Governing Administration of Agricultural Development Grants

Notice of Intent to Adopt Temporary Rules

Notice is hereby given that the Minnesota Department of Agriculture proposes to adopt the above entitled temporary rules. The Commissioner of Agriculture will follow the procedures set forth in Minnesota Statutes, sections 14.29-14.36 in adopting these rules.

Persons interested in these temporary rules shall have 20 days from the date the rules are published in the *State Register* to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the department.

Persons who wish to submit oral or written comments should submit the comments to: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107, (612) 296-1486.

Authority to adopt these rules is contained in Laws of Minnesota 1983, chapter 293, section 29, subdivision 2. This section requires the commissioner to adopt rules for the administration of agricultural development grants which may be used to encourage and promote the marketing of the products of Minnesota agriculture through any one of the following: advertising Minnesota agricultural products; assisting state agricultural commodity organizations; developing methods to increase processing and marketing of agricultural commodities, including commodities which may not now be produced in Minnesota but which may have economic potential; investigating and identifying new marketing technology and methods to enhance the competitive position of Minnesota agricultural products; evaluating livestock marketing opportunities; assessing and developing national and international markets for Minnesota agricultural products; studying the conversion of raw agricultural products to manufactured products including ethanol; hosting the visits of foreign trade teams to Minnesota and defraying the teams' expenses; assisting Minnesota agricultural businesses desiring to sell their products in national and international markets; and other activities the commissioner deems appropriate to promote Minnesota agricultural products in national and international markets.

The rules as proposed include provisions for the amount and duration of grants; eligibility criteria for both projects and applicants; requirements for the content of grant applications; procedures in event of incomplete grant applications; review criteria for applications; notification procedures; and provisions governing the general terms and conditions of grant contracts. The rules also include provisions for monitoring, review and evaluation of projects funded by the program.

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

PROPOSED RULES

Upon adoption of the temporary rules, the proposed rules, this notice, all written comments received, and the temporary rules as adopted, will be delivered to the Attorney General for review as to form and legality. As required by the Administrative Procedures Act, these temporary rules will be effective for not more than 180 days after their approval by the Attorney General, and may be continued in effect for an additional 180 days.

One free copy of this notice and the proposed temporary rules may be obtained by contacting Mr. Heil. Persons who wish to receive a copy of the temporary rules as adopted should also request it from Mr. Heil.

October 3, 1983

Jim Nichols
Commissioner of Agriculture

Rules as Proposed (all new material)

3 MCAR § 1.4060 [Temporary] Purpose and authority.

Rules 3 MCAR §§ 1.4060-1.4070 [Temporary] are prescribed by the commissioner to provide for the administration of agricultural development grants pursuant to Laws of Minnesota 1983, chapter 293, section 29, subdivision 2.

3 MCAR § 1.4061 [Temporary] Definitions.

A. Scope. For the purpose of 3 MCAR §§ 1.4060-1.4070 [Temporary], the terms defined in B.-J. have the meanings given them.

B. Advisory group. "Advisory group" means the ad hoc committee which may be selected by the commissioner pursuant to Laws of Minnesota 1983, chapter 293, section 29, subdivision 4 to assist in the evaluation of grant requests.

C. Agricultural products. "Agricultural products" means animal and animal products, dairy products, poultry or poultry products, fish, fruit, vegetables, horticultural crops, wood products, grain, bees, and apiary products grown, raised, produced, fed, or processed within the state of Minnesota for use as food, feed, seed, or any industrial, ornamental, or chemurgic purpose.

D. Commissioner. "Commissioner" means the commissioner of agriculture or the commissioner's designee.

E. Contract. "Contract" means an agreement between the commissioner and a grantee setting forth the terms of the grant.

F. Department. "Department" means the department of agriculture.

G. Fiscal year. "Fiscal year" means the period from July 1 of one year through June 30 of the following year.

H. Grant. "Grant" means an agricultural development grant authorized by Laws of Minnesota 1983, chapter 293, sections 5 and 29.

I. Grantee. "Grantee" means an applicant that has been awarded a grant under the program governed by 3 MCAR §§ 1.4060-1.4070 [Temporary].

J. Termination date. "Termination date" means the ending date of a grant awarded under the program governed by 3 MCAR §§ 1.4060-1.4070 [Temporary].

3 MCAR § 1.4062 [Temporary] General terms and conditions of grants.

A. Grant ratio. A grant made by the commissioner may not exceed 75 percent of the total cost of the grant project. The grantee must contribute in cash at least 12.5 percent of the total project cost, and the remaining portion of the grantee's contribution may be in the form of contributed goods and services.

B. Duration of grant. A grant will ordinarily be made for 12 months or less. Applications will be accepted for projects of longer duration, but grant funds will be committed for only 12 months. For projects extending beyond 12 months, a new application must be submitted and approved in accordance with 3 MCAR §§ 1.4060-1.4070 [Temporary] prior to the commitment of additional grant funds.

C. Amount of assistance. An applicant may submit more than one grant application in a fiscal year. The grant amount for any project may not exceed \$70,000. The total of all grants to the same grantee may not exceed \$70,000 for the biennium.

D. Application deadline. For the fiscal year ending June 30, 1984, the application deadline is 60 days after the effective date of 3 MCAR §§ 1.4060-1.4070 [Temporary]. Thereafter, the application deadline is 90 days preceding the start of the fiscal year. Based on availability of funds, the commissioner may accept grant applications at other times during the fiscal year.

3 MCAR § 1.4063 [Temporary] Eligible projects and applicants.

A. Eligible projects. A proposed project is eligible for a grant if it will expand, improve, or develop markets for the products of Minnesota agriculture through one of the following:

1. advertising Minnesota agricultural products;

2. assisting state agricultural commodity organizations desiring to sell their agricultural products in national and international markets;
3. developing methods to increase the processing and marketing of agricultural commodities including commodities not being produced in Minnesota on a commercial scale, but which may have economic potential in national and international markets;
4. investigating and identifying new marketing technology and methods to enhance the competitive position of Minnesota agricultural products;
5. evaluating livestock marketing opportunities;
6. assessing and developing national and international markets for Minnesota agricultural products;
7. studying the conversion of raw agricultural products to manufactured products including ethanol;
8. hosting the visits of foreign trade teams to Minnesota and defraying the teams' expenses;
9. assisting Minnesota agricultural businesses desiring to sell their products in national and international markets; and
10. other activities the commissioner deems reasonably related to promoting Minnesota agricultural products in national and international markets.

B. Eligible applicants. In its application, the applicant must demonstrate that it has the capability to meet the proposed objectives of the project and the grant contribution requirements.

3 MCAR § 1.4064 [Temporary] Application procedures.

A. Submission of application. An applicant for an agricultural development grant shall submit to the commissioner an original and five copies of a completed application. Applications must be received by the commissioner by the application deadline.

B. Application content. The application must include the following information:

1. a brief description of the characteristics of the applicant, including the legal name, the federal and state tax identification or social security number, address, and a brief statement of the applicant's organizational structure, history, and interest in the proposed project;
2. the name of the individual or individuals authorized to negotiate and sign contracts, and to receive and report on grant funds;
3. a general statement regarding which of the agricultural promotion activities listed in 3 MCAR § 1.4063 will be pursued, the project's importance to Minnesota agriculture, and the expected impact of the project;
4. a project description that includes the following:
 - a. a brief but clear statement of project objective or objectives, including an identification of major work tasks. Work tasks must be stated in measurable and quantifiable terms whenever possible;
 - b. an identification of the primary direct beneficiaries of the project;
 - c. a statement of the results expected from the project; and
 - d. suggested criteria for evaluating the success of the project;
5. a statement regarding the anticipated project starting date and completion date;
6. a statement of qualifications of personnel proposed to be assigned to the project;
7. a budget showing total project costs and contributions, as follows:
 - a. an identification of all sources of contributions and the amounts and types of contributions from each source;
 - b. an itemization of costs and indication of the source and type of contribution for the following items: personnel, travel, rental of office space or equipment, supplies, printing, postage and telephone, promotional or demonstrational equipment to be purchased, or other costs, and a description of the source and amount of funds for each type of expenditure (either anticipated grant or applicant contribution);

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PROPOSED RULES

c. the method of accounting and reporting contributions in the form of goods and services;

8. a copy of the latest audit report, financial statement, or other appropriate statement of financial condition of the applicant;

9. a description of how the proposed project will be coordinated with or conducted utilizing other public or private resources engaged in related agricultural promotion activities; and

10. a statement certifying that the applicant will not use agricultural development grant funds to continue existing agricultural promotion activities.

C. Incomplete application. The commissioner shall consider an application when a completed application is received. If an application is incomplete, the commissioner shall notify the applicant specifying the additional information required. The applicant has 20 days from the date on the commissioner's letter to provide the additional information. If there is no response to the commissioner's letter within 20 days, the commissioner shall not consider the application further.

D. Additional information. The commissioner may require the applicant to submit other information reasonably related to a determination of applicant or project eligibility or project feasibility.

3 MCAR § 1.4065 [Temporary] Application review; approval; and notification.

A. Advisory group review. If an advisory group is selected, the advisory group will convene at the call of the commissioner to review applications and will submit their evaluations to the commissioner.

B. Commissioner's review and determination. The commissioner shall review all applications. The commissioner shall determine whether an application shall be granted, and the amount and terms of the grant. The commissioner will weigh and compare all grant applications in light of the availability of funds.

C. Criteria for approval. The following criteria shall be used by the commissioner in reviewing each grant application.

1. whether the applicant and the project are eligible under 3 MCAR § 1.4063 [Temporary];

2. whether the proposed project is likely to expand, improve, or develop markets for Minnesota agricultural products by means of conducting one or more of the activities stated in 3 MCAR § 1.4063 [Temporary] A.;

3. whether the proposed project is realistic and achievable;

4. whether the successful completion of the proposed project is likely to result in the establishment of permanent businesses, activities, or investments related to agricultural promotion activities;

5. whether the experience or capability of the applicant and existing or proposed staff make likely the successful completion of the project;

6. whether the proposed project is coordinated with or conducted utilizing other public or private resources engaged in related agricultural promotion activities;

7. whether the proposed budget is adequate to accomplish the proposed project;

8. the degree to which similar or related projects by this applicant or other persons have been successful or unsuccessful;

9. whether the applicant appears able to apply generally accepted accounting principles and appears financially qualified for the project; and

10. the applicant's past performance as a grantee under this program, if applicable.

D. Notification. The commissioner shall notify the applicant in writing of the approval or disapproval of its grant application. If the proposal is approved, the commissioner's letter will inform the grantee of the procedures in 3 MCAR § 1.4066 [Temporary] and state what the grantee is required to do. If the proposal is not approved, the commissioner's letter must state the reasons for nonapproval and inform the applicant when the applicant may reapply.

3 MCAR § 1.4066 [Temporary] Grant administration.

A. Contract. Each grant must be governed by a contract between the department and the grantee. The following terms among others will be specified in the contract:

1. the total amount of the grant and the timing of grant payments;

2. the starting date and the termination date of the contract;

3. dates for submitting progress reports;

4. a list of the eligible costs of the project, in accordance with C.3.; and

5. a statement that the grantee will inform the commissioner of any significant change in implementation of the project, and will obtain prior approval before initiating such change.

B. Rescission of grant. The individual authorized by the grantee must sign and return the contract with all attachments to the commissioner no later than 15 days after the date it receives the contract. If the grantee does not sign and return the contract with all attachments to the commissioner within those 15 days, the commissioner may rescind the grant commitment. The grantee may not begin to spend money under the grant until the contract has been signed by all necessary parties and a fully executed copy has been returned to the grantee.

C. Payments and use of funds.

1. Payments to the grantee will be made according to the schedule stated in the contract. In all cases, payment of the final ten percent of the grant funds will be made upon the commissioner's receipt and acceptance of the final report required under 3 MCAR § 1.4068 [Temporary] E.

2. Grant funds may not be used for acquisition of land, buildings, general office equipment, and other capital expenditures.

3. Grant funds may be used for the following:

- a. employment of personnel to carry out the objectives of the project;
- b. consulting services but not consulting fees to develop the proposal submitted to the commissioner;
- c. rental of office space or equipment;
- d. purchase of supplies;
- e. printing or publication services;
- f. travel expenses;
- g. charges for telephone service;
- h. purchase of promotional or demonstrational equipment necessary for the project and specifically identified in the application as a proposed purchase; and
- i. services, facilities, or goods specified in the application or the contract.

3 MCAR § 1.4067 [Temporary] Extensions.

The grantee must make a written request for an extension of the contract no later than 60 days prior to the termination date. The commissioner may grant an extension up to six months. As a condition of the contract extension, the commissioner may modify the terms of the contract.

3 MCAR § 1.4068 [Temporary] Monitoring and review.

A. Records. The grantee is required to keep records of all activities undertaken in connection with implementation of the grant proposal. The books, records, documents, and accounting procedures and practices of the grantee related to the grant are subject to examination by the commissioner. The grantee must give the commissioner access during normal business hours to all these business records related to the project.

B. Progress reports. Grantees must submit progress reports to the commissioner on dates specified in the contract. Each progress report must include a narrative statement of the progress toward project objectives and work tasks, an itemized statement of project funds, including grant funds received and the grantee's contributions, and an itemized statement of project expenditures.

C. On-site visit. The commissioner may conduct on-site visits during the term of the grant to determine what progress has been made to accomplish project objectives and work tasks or if the grantee has been complying with all terms and conditions of the contract.

D. Evaluation. If the commissioner determines through an examination that the grantee has not been complying with the terms of the contract, the commissioner may direct the grantee to adhere to the terms of the contract, may unilaterally modify the terms of the grant contract, may terminate the contract, or may seek a legal remedy in a court of competent jurisdiction.

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PROPOSED RULES

E. Final report. Grantees must return all unexpended grant funds and submit a final written report on their project within 60 days of the termination date of the contract. Grantees may submit additional information in the final report if they desire, but the final report must include the following information:

1. an assessment regarding the completion of project objectives and work tasks as well as the results achieved. To the extent possible, the assessment must be written in measurable and quantifiable terms;
2. an assessment of further work that may be necessary with respect to the objectives of the project, based on the experience gained through implementing the project;
3. an evaluation of the project stating both its immediate and long-term impact regarding the expansion, improvement, or development of markets for products of Minnesota agriculture; and
4. a complete financial statement accounting for all receipts and expenditures of grant funds and for all the grantee's contributions of money, goods, and services.

3 MCAR § 1.4069 [Temporary] Termination of contract.

The contract will terminate on the termination date specified in the contract unless extended under 3 MCAR § 1.4067 [Temporary] or terminated by the commissioner under 3 MCAR § 1.4070 [Temporary]. Upon termination of the contract at any time, any unused supplies or materials and all unexpended grant funds must immediately be returned to the commissioner.

3 MCAR § 1.4070 [Temporary] Misrepresentation by applicant or grantee.

If any grant application, progress report, or final report contains material false or misleading statements or information, the commissioner may take one or more of the following actions, as appropriate: reject the grant application; conduct an examination of the use of grant funds; unilaterally modify the terms of the grant contract; terminate the grant contract; or recover grant funds through available legal remedies.

Department of Agriculture Plant Industry Division

Proposed Amendments to Rules Governing Seed Potato Certification (3 MCAR §§ 1.0127-1.0135)

Notice of Intent to Adopt Rules without a Public Hearing

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

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

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the department will proceed according to the provisions of Minnesota Statutes, sections 14.11-14.20 (1982). If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-1486.

Authority to adopt these rules is contained in Minnesota Statutes, section 21.118. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Mr. Heil.

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

The commissioner is authorized by Minnesota Statutes section 21.118 to provide standards for the inspection, certification,

production, and marketing of certified seed potatoes in the State of Minnesota. The proposed amendments are of two types: (1) changing the name of the first class of certified seed potatoes from "Foundation" certified seed potatoes to "Primary Foundation" certified seed potatoes, and (2) changing the name of the second class of certified seed potatoes from "Approved" certified seed potatoes to "Foundation" certified seed potatoes.

Changing the name of these two classes will permit Minnesota certified seed potatoes to move more competitively in interstate commerce, since these names will be consistent with names currently used for grades of certified seed potatoes nationally. At the present time, the best certified seed potatoes produced within the strictest disease and injury tolerances are named by most states in accordance with the changes proposed in these rules. This means that Minnesota's best certified seed potatoes are currently named by the name of the second class nationally, which is a disadvantage to Minnesota producers of certified seed potatoes.

The proposed changes will benefit Minnesota's certified seed potato producers, virtually all of whom meet the definition of small business as stated in Laws of Minnesota 1983, chapter 188, section 1, because their potatoes that are grown within the same tolerances as other states will now be properly named to compete accordingly. The proposed rules will not result in any additional costs of production for small producers. The certified seed potato producers will be able to receive the top market value for their first and second classes of certified seed potatoes and compete fairly in all certified seed potato markets if the proposed rules are adopted.

Please be advised that Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11 (Supp. 1979) 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 \$250.00, 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 \$250.00, 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, 40 State Office Building, St. Paul, MN 55155, (612) 296-5615.

One free copy of this notice and the proposed rules are available and may be obtained by contacting Mr. Heil.

October 3, 1983

Jim Nichols
Commissioner of Agriculture

Rules as Proposed

3 MCAR § 1.0129 General guidance.

The provisions of this section govern the production of potatoes for use as certified seed potatoes.

A. [Unchanged.]

B. Winter testing. In order to detect certain virus diseases, samples from all Primary Foundation certified and ~~Approved~~ Foundation certified seed potato lots shall be winter-tested. In the event of serious malfunctions of the winter test, classification of lots as Primary Foundation certified or ~~Approved~~ Foundation certified shall be based on the previous summer field readings.

C. Certified seed potato classes. There are three classes of Minnesota certified seed potatoes, differentiated by their tolerances for virus diseases.

1. The first class, Primary Foundation certified seed potatoes, has stricter tolerances for virus diseases than do the other classes. This class shall be winter-tested.

2. The ~~Approved~~ Foundation certified seed potato class is the second class. Virus disease tolerances for these seed

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PROPOSED RULES

potatoes are less strict than those for Primary Foundation certified seed potatoes. ~~Approved Foundation~~ certified seed potatoes shall also be winter-tested.

3. [Unchanged.]

D. Certified seed potato grades. Grades of certified seed potatoes are established according to the physical defects of the tubers. There are three grades used for shipping Minnesota certified seed potatoes.

1. The blue tag certified seed potato grade, the first grade, has tolerances for physical defects of the tubers stricter than the other grades. This grade may be used by growers of Primary Foundation certified, ~~Approved Foundation~~ certified, and Certified seed potatoes. The blue tag grade may be used for intrastate and interstate shipments of certified seed potatoes.

2. The yellow tag certified seed potato grade is the second grade. This grade allows more physical defects of the tubers than the blue tag certified seed potato grade. It may be used by growers of Primary Foundation certified, ~~Approved Foundation~~ certified, and Certified seed potatoes. The yellow tag grade may also be used for intrastate and interstate shipments of certified seed potatoes.

3. The white tag certified seed potato grade is the third grade. The tolerances for physical defects of the tubers are determined by agreement between purchaser and seller of the certified seed potatoes. This grade may only be used by growers of Primary Foundation certified and ~~Approved Foundation~~ certified seed potatoes. It may only be used for intrastate shipments of certified seed potatoes.

E.-F. [Unchanged.]

3 MCAR § 1.0130 Application and eligibility for inspection and certification.

~~The following procedures shall govern:~~

A. [Unchanged.]

B. Seed potatoes eligible for Minnesota certification planting. A field ~~shall~~ may not be inspected for certification unless both the seed potato variety and the particular lot planted have the authorization of the commissioner. In considering seed potato varieties for authorization for certification planting, the commissioner shall consider scientific evidence and expert opinion. To be eligible for certification planting, seed potatoes ~~shall~~ must be one of the following:

1. From Minnesota growers:

a. Primary Foundation certified seed potatoes;

b. ~~Approved Foundation~~ certified seed potatoes; or

c. Certified seed potatoes. A grower may replant his own certified seed potatoes. The commissioner may authorize the planting of purchased certified seed potatoes if there is no source of Primary Foundation certified or ~~Approved Foundation~~ certified seed potatoes available to the grower.

2. From non-Minnesota growers: Seed potatoes approved for certification planting by the certifying agency in another state or a Canadian province may be planted if tolerances for certification meet Minnesota tolerances for ~~Approved Foundation~~ or Primary Foundation certified seed potatoes.

3. [Unchanged.]

3 MCAR § 1.0132 Requirements for Primary Foundation certified seed potato production.

Primary Foundation certified seed potatoes consist of potatoes which meet all the requirements of 3 MCAR §§ 1.0130 and 1.0131 as well as the additional requirements in this rule.

A. A lot grown as and intended to be Primary Foundation certified seed potatoes must remain under direct control of the grower for three years prior to being certified as Primary Foundation certified seed potatoes.

B. Primary Foundation certified seed potatoes shall be the only potatoes grown on the farm. They shall be grown from potatoes produced on a tuber unit seed plot.

C.-D. [Unchanged.]

E. A sample of each lot meeting the requirements of this rule ~~shall~~ must be submitted for winter testing. Seed potato lots with winter test readings more than one-half percent of any or all virus diseases ~~shall~~ must be removed from the Primary Foundation certified seed potato class. Presence of spindle tuber, bacterial ring rot, or chemical damage ~~shall~~ must also remove the lot from the Primary Foundation certified seed potato class.

F. [Unchanged.]

G. Blue, yellow, or white tags with the word "Primary Foundation" stamped across the front of the tag shall be issued only after all requirements of 3 MCAR § 1.0132 are met. In addition, the crop must be at least the third crop grown following the year in which bacterial ring rot was found before becoming eligible to be tagged with Primary Foundation tags.

3 MCAR § 1.0133 Requirements for ~~Approved~~ Foundation certified seed potato production.

~~Approved~~ Foundation certified seed potatoes ~~shall~~ consist of potatoes which meet all the requirements of 3 MCAR § 1.0130 and 3 MCAR § 1.0131 as well as the following additional requirements:

A. [Unchanged.]

B. A sample of the lot must meet the same winter test requirements as prescribed for Primary Foundation certified seed potatoes in 3 MCAR § 1.0132 E.

1. In selecting lots for winter testing, the commissioner shall consider factors such as lots more than two years removed from the Primary Foundation certified seed potato class, amount of disease found during field inspections, amount of varietal mixture rogued, proximity to fields having excessive amounts of disease, and other conditions which may jeopardize the value of the lots for certification planting.

2. If bacterial ring rot is found on the farm, before becoming eligible to submit a sample from future crops for winter testing, the grower ~~shall~~ must either:

a. Dispose of the crop from the year bacterial ring rot was found and purchase all new Primary Foundation certified or ~~Approved~~ Foundation certified seed potatoes; or

b. Produce at least two crops free from bacterial ring rot.

3 MCAR § 1.0135 Minnesota certified seed potato grades and tolerances.

A. Minnesota certified seed potato grades. Before potatoes are eligible for grading as certified seed potatoes, the requirements of 3 MCAR §§ 1.0130 and 1.0131 must be met. In addition, Primary Foundation certified seed potatoes must meet the requirements of 3 MCAR § 1.0132. ~~Approved~~ Foundation certified seed potatoes must meet the requirements of 3 MCAR § 1.0133. Grading and tagging or issuance of a bulk certificate are the final steps in the certification process.

1.-2. [Unchanged.]

3. Minnesota white tag certified seed potato grade.

a. Minnesota white tag certified seed potato grade ~~shall consist~~ consists of Primary Foundation certified or ~~Approved~~ Foundation certified seed potatoes which are graded according to agreement between the seller and the purchaser as to size and defects, except that not more than one-half percent of soft rot, frozen, or wet breakdown and two percent dry rot ~~shall be~~ is allowed.

b. [Unchanged.]

B.-D. [Unchanged.]

Department of Energy and Economic Development Energy Division

Proposed Temporary Rules for the Administration of the Public School Energy Conservation Investment Loan Program

Request for Public Comment

Notice is hereby given that pursuant to Minn. Stat. § 14.30 (1982), the Energy and Economic Development Authority is proposing the following temporary rules for the purpose of administering the public school energy conservation investment loan program. Authority for the adoption of these rules is contained in Minn. Stat. § 116J.37, § 1, subd. 7. A copy of the proposed rules is attached to this notice.

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

PROPOSED RULES

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

Marsha K. Battles
Energy Division
980 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 297-3789

The proposed temporary rules may be modified if the modifications are supported by the data and views submitted to the authority and do not result in a substantial change in the proposed language.

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

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

Mark B. Dayton, Chairman
Energy and Economic Development Authority

Temporary Rules as Proposed (all new material)

6 MCAR § 2.2500 [Temporary] Purpose.

The purpose of 6 MCAR §§ 2.2500-2.2509 [Temporary] is to establish procedures for application by school districts for energy conservation investment loans, criteria for state agency review of loan applications, and procedures and guidelines for program monitoring, evaluation, and closure of loan account.

6 MCAR § 2.2501 [Temporary] Definitions.

- A. Scope. For the purposes of 6 MCAR §§ 2.2500-2.2509 [Temporary], the following terms have the meaning given them.
- B. Authority. "Authority" means the Energy and Economic Development Authority.
- C. Building. "Building" means an existing building owned and operated by a public school district for district purposes but not related or leased to private for profit or not-for-profit interest.
- D. Payback. "Payback" means the average simple payback that is equal to the design, acquisition, and installation costs of an energy saving building improvement divided by the estimated first year energy cost savings attributable to that measure.
- E. Project. "Project" means all proposed work in an application for a loan to a school district.

6 MCAR § 2.2502 [Temporary] Loan funds.

A. Use of loan; loan application categories. A loan based on an approved loan application may be awarded by the authority to a school district to cover the costs of making energy conservation investments that are capital expenditures associated with conservation measures to improve the energy efficiency of an existing school building, to reduce the energy costs of existing school buildings, or both, and that have paybacks of ten years or less as specified in the approved maxi-audits. There are three loan application categories:

1. loans to school districts that have not previously received or been offered loan funds in this program;
 2. loans for new projects in school districts that previously received or been offered loan funds through this program;
- and

3. loan contract amendments for projects in progress that are experiencing cost overruns or for previously unidentified but related work necessary to successful implementation of a previously approved and funded project. Any additional work must be substantiated by engineering analysis and must meet loan program review criteria.

B. Funding priorities. Funds will be issued as loans on a first-come-first-served basis based on the date of loan application approval by the authority. In order to achieve a more equitable and fair distribution of loan funds if loan application requests exceed available funds, the authority may:

1. limit the loan amount per building or per school district;
 2. approve or not approve loans to districts that have already received or been offered loan funds through this program;
- and
3. approve or not approve amendments to increase funds to previously approved and funded projects.

C. Prior approval required. Loans may not be awarded retroactively. Loan projects may not be contracted for or begun prior to a school district's notification of the loan application's approval.

D. Existing buildings; new construction. Loans may be approved only for existing school district buildings and not for new construction, except if new construction is a necessary part of successful implementation of an energy conservation measure and is included in the approved application.

E. Loan repayment schedule. A loan repayment schedule based on the approved loan application must be attached to the loan contract that is sent to the school districts for signature.

6 MCAR § 2.2503 [Temporary] Application procedures.

A. Forms. All prescribed application forms, report forms, and instructions shall be available from the authority.

B. Submission. The authority shall begin to accept applications on the date these temporary rules become effective and shall continue to accept applications until these temporary rules expire or until permanent rules that replace these temporary rules expire.

C. Approval. The requirements of 6 MCAR §§ 2.2504-2.2506 must be met by an applicant in order for the authority to approve an application. An applicant whose application is approved will be sent a loan contract with the loan repayment schedule to sign and return to the authority for signatures by state officials and for issuing of the loan.

D. Rejection and resubmission. An applicant whose application is rejected will be given written notice of problems encountered in the review process and options available to correct them for resubmission of the application. If only certain of the measures included in the project are rejected or modified, the applicant may decide to accept a loan for the approved portions or resubmit the entire project proposal at a later date after making the necessary changes.

6 MCAR § 2.2504 [Temporary] Administrative criteria.

A. Required application contents. An application must be submitted to the authority on a form prescribed by the authority.

The application must contain at a minimum: the school district number; complete mailing address of school district including the county; contact person's name, title, and telephone number; project start and estimated completion dates; list of buildings included in the request and the dollar amount requested per building; name and address of each building; the total floor area in square feet for each building; original construction date for each building; and a summary description of each energy conservation measure, its estimated cost, its estimated annual energy cost savings, its estimated annual fuel and electric savings and the payback. The application must have an original, ink signature and date by the authorized official of the school district.

An application must also include an irrevocable resolution of the school board to annually levy or otherwise collect sufficient funds to guarantee loan repayment, a maxi-audit for each building involved in the project, a milestone chart to explain the timeline of project implementation, and the required assurances. The authority may request additional information if necessary to review an application. One copy of the application is required.

B. Review by authority. The authority shall examine the loan application to verify that the applicant is eligible, that the required forms and reports are included and are correctly completed, that an irrevocable resolution of the school board or school district on school board letterhead is included, that the milestones for the project are reasonable, and that all assurances are attached.

6 MCAR § 2.2505 [Temporary] Technical criteria.

A. Contents of technical support materials. A technical review must be based on the maxi-audit submitted for each building. A maxi-audit, defined in Minnesota Statutes, section 116J.06, subdivision 12 is a detailed engineering analysis of energy saving building improvements, including modifications to building structure; heating, ventilating, and air conditioning systems; operation practices; lighting; and other factors that relate to energy use. The purpose of a maxi-audit is to quantify the economic and engineering feasibility of energy saving improvements that require capital expenditures or major operational modifications. The maxi-audit must be performed by or under the direction of a professional engineer or an architect registered in Minnesota. The maxi-audit must be submitted with the loan application on forms prescribed by the authority.

B. Project eligibility limitations. Only energy conservation investments with ten year or less paybacks identified and described in approved maxi-audits are eligible. Loans may not be awarded to buildings with a remaining useful life less than the

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PROPOSED RULES

payback of the energy conservation investments proposed. Loans may not be awarded for energy conservation measures if the payback of the energy conservation investments proposed is greater than the life of the measure.

C. Review by authority. The authority shall examine a maxi-audit that accompanies a loan application to verify that energy conservation investments requested are analyzed with adequate details of the existing conditions and proposed changes using appropriate calculation procedures, and that the proposed measures are eligible. The authority may accept, reject, or modify a loan application request as necessary based on this review.

6 MCAR § 2.2506 [Temporary] Financial criteria.

A. Maximum loan amount. The authority shall establish a maximum loan amount for each school district based on information provided by the Department of Education. The maximum loan amount must be determined to ensure that factors 1., 2., and 3. will be sufficient to meet all interest and principal payments over the life of the loan. If more than one loan is awarded or if a loan amendment is awarded to a school district, the collective loan amounts may not exceed the maximum loan amount established by the following three criteria:

1. the entire amount of the Special Purpose Capital Expenditure Levy limitation over ten years; plus
2. 50 percent of the Capital Expenditure Levy limitation over ten years; plus
3. an amount equal to a three percent increase in overall school district levy limitation, based on the amount authorized in the previous year, over ten years.

The amount of 1. and 2. will be based on the levy authority for the school district for the year prior to the year in which the loan application is submitted.

B. Guaranteed repayment. An irrevocable resolution of the school board must guarantee loan repayment.

C. Additional loan amount limitations. If none of the following conditions exist, then A. determines the maximum loan amount. If one or more of the following conditions exist, the loan amount may be less than the amount determined by A. or the request may be denied, as determined by the authority on a case-by-case basis:

1. a negative unappropriated operating fund balance that violates the "expenditure limitations" defined in Minnesota Statutes, section 121.917;
2. a negative capital expenditure fund balance that exceeds the deficit limitations in Minnesota Statutes, section 121.911, subdivision 5;
3. a high relative tax burden ranking compared to the other districts in the state; and
4. declining enrollment trends for the previous three years that exceed 12 percent per year.

The energy expenditures over the operating budget of the school district will be used to identify a greater or lesser need for energy conservation capital improvements.

6 MCAR § 2.2507 [Temporary] Reports and monitoring.

A. Annual report. The school district shall submit to the authority on forms prescribed by the authority an annual project status report and financial report. These reports are due each July 31 until the project is completed. The project status report must indicate the progress of the implementation of the measures funded, problems encountered, the effect of the problems on the project, and the corrective action taken. The financial status report must indicate the expenditures of the loan funds through June 30. If the school district has not demonstrated substantial progress towards completion of the project after 18 months, or anytime thereafter, the entire loan amount may become due and payable at the discretion of the authority.

B. Final report. Upon completion of the project, the school district shall submit to the authority on forms prescribed by the authority a final project status report and a financial status report that gives actual expenditures of the measures implemented. A copy of the canceled liens by contractors or invoices from contractors may be required for contracted work.

C. Annual energy report. The school district shall submit to the authority on forms prescribed by the authority an annual energy use and energy expenditure report by fuel type for the duration of the loan contract period unless the authority cancels this requirement prior to the end of the loan contract period.

6 MCAR § 2.2508 [Temporary] Program evaluation.

The authority shall design and implement an evaluation of the loan program. Loan recipients shall agree to provide to the authority in a timely manner the information that is reasonably needed to evaluate the loan program.

6 MCAR § 2.2509 [Temporary] Closure of the loan account.

If the authority determines that the project that was approved for loan funds has been implemented, it shall authorize closure of the loan account upon full repayment.

Department of Natural Resources

Proposed Amendment to Rules Governing Snowmobiles

Notice of Intent to Adopt Rule Amendment without a Hearing

Notice is hereby given that the Department of Natural Resources is proposing to adopt the above entitled amendment without a public hearing. The Commissioner of Natural Resources has determined that the proposed adoption of these amendments will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. §§ 14.21-14.28.

The change provides a way for John Deere and Polaris, who do not now belong to the Snowmobile Safety and Certification Committee, to demonstrate their conformance with the 78 decibel noise limit.

Persons interested shall have 30 days to submit comments on the proposed amendments. The proposed amendments may be modified prior to final adoption if modifications are supported by the data and views submitted to the Department of Natural Resources 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 amendments within the 30-day comment period, a public hearing will not be held. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. §§ 14.13-14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a copy of this notice and/or a copy of the proposed amendment, should address their correspondence to:

Robert Hodge
Department of Natural Resources
Box 47
Centennial Office Building
St. Paul, Minnesota 55155

The department's authority to adopt the rules is contained in Minn. Stat. § 84.86. A statement that describes the need for and reasonableness of the proposed amendment is available from the Department of Natural Resources upon request.

Upon adoption of the final amendment without a public hearing, the proposed amendment, this notice, the statement of need and reasonableness, all written comments received, and the final amendment 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 amendment as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. § 10A.01, subdivision 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spend more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than \$250, not including his own travel expenses or membership dues, in any year, for the purpose of attempting to influence legislative administrative action by communicating or urging others to communicate with public officials. The statutes provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

September 28, 1983.

Joseph N. Alexander
Commissioner of Natural Resources

Rule as Proposed

6 MCAR § 1.0057 Required equipment.

A.-D. [Unchanged.]

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PROPOSED RULES

E. Mufflers.

1.-5. [Unchanged.]

6. No snowmobile shall be sold or offered for sale in Minnesota unless its maker ~~shall have~~ has previously furnished the commissioner with a certificate of compliance certifying that all ~~such~~ snowmobiles made by that maker meet or exceed the applicable noise level restrictions established by these rules. The certification of compliance ~~required in the foregoing~~ shall be in the form of a "Snowmobile Safety Certification Committee" label conspicuously attached to the machine showing certification by the Snowmobile Safety and Certification Committee, Inc., or a label showing compliance with Snowmobile Safety Certification Committee standards accompanied by a letter containing test results of an evaluation of noise levels by a competent independent testing laboratory. Snowmobiles intended for competition purposes only shall be exempt from this rule provided a separate placard identifying that such snowmobile is not so equipped is conspicuously and permanently affixed thereto.

7. [Unchanged.]

Minnesota Pollution Control Agency Air Quality Division

Proposed Amendment to Rule Governing the Agency's Permit Program for the Growth or Expansion of Industry in Nonattainment Areas (6 MCAR § 4.0041)

Notice of Intent to Amend a Rule without a Public Hearing and Notice of Intent to Amend the State Implementation Plan

Notice is hereby given that the Minnesota Pollution Control Agency (hereinafter "agency") intends to adopt the above-entitled amendments without a public hearing. The agency has determined that the proposed amendment of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21 to 14.28 (1982), as amended by 1983 Minnesota Laws, chapter 210.

Notice is also hereby given that the agency intends to adopt the amended version of 6 MCAR § 4.0041 as part of the State Implementation Plan (hereinafter "SIP") and to withdraw the previously submitted version of 6 MCAR § 4.0041 from consideration as part of the SIP by the U.S. Environmental Protection Agency.

Part D of the U.S. Clean Air Act requires states to adopt programs for permitting persons to expand or construct emission sources in areas not meeting ambient air quality standards (i.e., nonattainment areas, 42 U.S.C. sections 7501-7508). The requirements of Part D of the U.S. Clean Air Act are implemented through regulations adopted by the U.S. Environmental Protection Agency, 40 C.F.R. 51.18.

In 1981, the Minnesota Pollution Control Agency (agency) adopted 6 MCAR § 4.0041 (the offset rule) to meet these federal permitting requirements.

As it currently exists, the offset rule applies to those expansions of existing facilities and those constructions of new facilities which (1) will be located in Minnesota nonattainment areas and (2) will result in net increases in emissions. The agency used "net increases in emissions" as the basis for determining the applicability of the offset rule because that was consistent with the federal requirements in effect at the time the agency adopted its offset rule (*see* 40 C.F.R. 51.18, as revised in *Federal Register* Vol. 46, No. 198, pp. 50766-50771).

After the agency adopted its offset rule, the Circuit Court of Appeals struck down some of the federal regulations on which Minnesota's offset rule was based. *NRDC v. Gorsuch*, 17 ERC 1825 (D.C. Cir. 1982). This court ruling made Minnesota's offset rule inconsistent with federal requirements. Consequently, the agency is now proposing to amend the offset rule to make it consistent with the changed federal requirements.

If adopted, the proposed amendments to the offset rule would change the applicability of the rule. Rather than applying only to expansions and constructions resulting in a net increase in emissions, the offset rule, if amended, would apply to expansions and constructions which result in certain net or gross increases in emissions. This change would have the effect of preventing persons from using a "bubble" to avoid application of the requirements of the offset rule. (The change would not otherwise effect the use of "bubbles" in Minnesota).

If adopted, the proposed amendments to the offset rule would also change the applicability of the rule to lead emission facilities. As it currently is written, the offset rule applies to constructions of emission facilities which would result in emissions of 100 tons of lead per year. The proposed amendments would make the rule apply to constructions resulting in emissions of 5 tons of lead per year. This change is proposed to be made in response to comments received from staff of the U.S.

Environmental Protection Agency to ensure that the Minnesota State Implementation Plan fully provides for maintenance of the National Ambient Air Quality Standards for lead. (The rule also applies to expansions of emission facilities which would result in an increase of 0.6 tons of lead per year. No change in this is proposed.)

The proposed rule accounts for the difference between small and large businesses by only applying to large facilities, i.e., facilities which emit more than specified tons of pollutants each year. The offset rule is advantageous to all businesses in that it provides a mechanism for growth and expansion in areas in which such growth would otherwise be prohibited. Because the offset rule simply establishes a means through which otherwise prohibited growth may be accomplished, its impact on small and large business cannot be quantified, but should be considered positive.

The agency is authorized to adopt these amendments under Minn. Stat. § 116.07, subdivision 4 and subdivision 4a (1982).

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

Mr. Douglas M. Benson
Division of Air Quality
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
[Telephone: (612) 296-7743]

Persons interested in this rule have until November 18, 1983, to submit comments on the proposed amendments. The proposed amendments may be modified if the data and views submitted to the agency warrant modifications and the modifications do not result in a substantial change in the proposed language of the amendments.

If during the comment period, seven or more persons submit to the agency a written request for a hearing on the proposed rule, the agency shall proceed to schedule a public hearing before adoption of the proposed rule. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, sections 14.14 to 14.20 (1982), as amended by 1983 Minnesota Laws, chapter 210.

Persons who wish to submit comments or to request a public hearing should submit such comments or requests no later than November 18, 1983, to Mr. Douglas Benson at the address given above. The agency asks that persons requesting a public hearing identify the particular provisions objected to, the suggested modifications to the proposed rule and the reasons and data relied on to support the suggested modifications.

In the event a hearing is required, a new notice of hearing will be mailed out and published in the *State Register*. Unless seven or more persons submit written requests for a public hearing, a public hearing will not be held and the agency will consider the adoption of the proposed rule at the November 22, 1983, agency meeting or as soon thereafter as possible. Persons who wish to receive a copy of the final rule as proposed for adoption should submit a written statement of such request to Mr. Douglas Benson at the address noted above.

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

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (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 \$250.00, 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 \$250.00, not including his traveling expenses and membership dues, in any year for the purpose

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PROPOSED RULES

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 Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, telephone (612) 296-5615.

Sandra S. Gardebring, Executive Director
Minnesota Pollution Control Agency

Rule as Proposed

6 MCAR § 4.0041 Offset rule.

A. [Unchanged.]

B. Applicability.

1. Except as provided in 2., this rule applies to persons who propose to construct or modify a subject emission facility, as defined in C.4718.

2. [Unchanged.]

C. Definitions. The definitions in rule APC 2 of the Minnesota Pollution Control Agency apply to the terms used in this rule unless the terms are defined herein. For the purposes of this rule, the following words have the meanings defined below.

1.-3. [Unchanged.]

4. "Gross increase in emissions" means the gross number of new tons per year of a nonattainment criteria pollutant that could be legally discharged from an emission facility. In determining the gross increase in emissions, the director shall include all nonattainment criteria pollutant discharges that the emission facility could emit but shall give a credit for all legally enforceable restrictions on or reductions of the nonattainment criteria pollutant discharges from an emission facility, such as a restriction in nonattainment criteria pollutant discharges that would result from installing required pollution control equipment. No credit may be allowed for any other reductions of or restrictions on nonattainment criteria pollutant discharges.

4.-7. Renumber as 5.-8.

8-9. "Net increase in emissions" means the net number of new tons per year of a nonattainment criteria pollutant that could be legally discharged from a subject an emission facility. In determining the net increase in emissions, the director

~~a-~~ shall include all nonattainment criteria pollutant discharges that the subject emission facility could emit but

~~b-~~ shall give a credit for the following:

(1) a. all legally enforceable restrictions on or reductions of the nonattainment criteria pollutant discharges from the subject emission facility, such as a restriction on nonattainment criteria pollutant discharges that would result from installing required pollution control equipment; and

(2) b. any other restrictions on or reductions of the nonattainment criteria pollutant discharges that the person proposing the subject emission facility both obtains within the same plant and agrees to include within the terms of any permit issued for the subject emission facility.

9.-16. Renumber as 10.-17.

17-18. "Subject emission facility" means:

a. An emission facility that is proposed to be constructed or modified.

(1) in ~~any~~ an area designated a nonattainment area on the date the agency receives the completed permit application for the proposed construction or modification, and where

(2) the construction or modification of ~~which~~ this emission facility will result in a net gross increase in emissions of at least five tons per year of lead or of at least 100 tons per year of a any other nonattainment criteria pollutant; ~~or~~.

b. An emission facility that is proposed to be modified

(1) in ~~any~~ an area designated a nonattainment area on the date the agency receives the completed permit application for the proposed modification; and that

(2) has existing restricted emissions of at least five tons per year of lead or of at least 100 tons per year of ~~the~~ any other nonattainment criteria pollutant; ~~and~~.

(3) The modification of ~~which will~~ this emission facility must result in a significant net increase in emissions of the

nonattainment criteria pollutant. A net increase in emissions is significant if the rate of the increase is at least the rate specified below:

- (a) (1) carbon monoxide; 100 tons per year;
- (b) (2) sulfur dioxide; 40 tons per year;
- (c) (3) nitrogen oxides; 40 tons per year;
- (d) (4) nonmethane hydrocarbons; 40 tons per year;
- (e) (5) particulate matter; 25 tons per year;
- (f) (6) lead; 0.6 tons per year; ~~or.~~

c. A plant that is proposed to be modified

~~(1)~~ (1) in ~~any~~ an area designated a nonattainment area on the date the agency receives the completed permit application for the proposed modification and that has existing restricted emissions of at least five tons per year of lead or of at least 100 tons per year of any other nonattainment criteria pollutant.

~~(2)~~ (2) ~~Which~~ The proposed modification of this emission facility, when considered in aggregate with X, will must result in a significant net increase in emissions of the nonattainment criteria pollutant, where:

(a) X = the net increase in nonattainment criteria pollutant discharges resulting from any construction or modification of the plant which was permitted by the agency during the following time period: any time both within the 18 months immediately prior to the date the agency receives the completed permit application for the proposed modification and during which the area within which the plant is located was designated a nonattainment area.

(b) A net increase in emissions is significant if the rate of the increase is at least the rate specified in b. ~~(3)~~.

18. Renumber as 19.

D. Conditions for permit. Except as provided in 5., the agency ~~shall~~ may not issue ~~permits~~ a permit for ~~any~~ a subject emission facility unless the permit applicant has satisfied the conditions in 1.-3. All permits issued for subject emission facilities ~~shall~~ must contain the conditions set forth in 4.

1. [Unchanged.]

2. Requirement to demonstrate a net air quality benefit. Prior to constructing or modifying a subject emission facility, the permit applicant shall demonstrate that the offsets to be provided are sufficient to result in a net air quality benefit, as defined in C. ~~78~~.

a.-b. [Unchanged.]

3.-4. [Unchanged.]

5. Exception from requirement to ~~get~~ obtain offsets.

~~a.~~ A permit applicant proposing to construct or modify a resource recovery facility burning municipal solid waste ~~shall~~ is not be required to obtain sufficient offsets to demonstrate a net air quality benefit if the director determines that the permit applicant:

~~(1)~~ (1) a. has made its best efforts to obtain sufficient offsets to comply with this rule and has demonstrated that such efforts were unsuccessful;

~~(2)~~ (2) b. has obtained all available offsets; and

~~(3)~~ (3) c. agrees to continue to seek the necessary offsets and apply them when they become available.

~~b.~~ The director shall determine that the permit applicant has made its best efforts if the permit applicant demonstrates that the requirement to obtain sufficient offsets creates an undue economic hardship for the permit applicant or is technologically unachievable.

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PROPOSED RULES

(1) If the permit applicant seeks to obtain an exception on the grounds of undue economic hardship, it shall submit to the director the information set out in rule ~~MPCA 6(b)(5)~~ 6 MCAR § 4.3007 B.5. of the Minnesota Pollution Control Agency.

(2) If the permit applicant seeks to obtain an exception on the grounds of technological unachievability, it shall submit to the director the information set out in rule ~~MPCA 6(b)(6)~~ 6 MCAR § 4.3007 B.6. of the Minnesota Pollution Control Agency.

E.-F. [Unchanged.]

Pollution Control Agency

Proposed Amendment of Rule APC 2, Definitions, Abbreviations, Applicability of Standards, Access to Premises, Variances, Circumvention, Severability, to be Retitled Definitions, Abbreviations, Applicability of Standards, Opacity Standard Adjustment, and Circumvention

Notice of Intent to Adopt Amendments to Rule without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (agency) intends to adopt without a public hearing amendments to APC 2, "Definitions, Abbreviations, Applicability of Standards, Access to Premises, Variances, Circumvention, Severability," to be retitled "Definitions, abbreviations, applicability of standards, opacity standard adjustment and circumvention."

The agency has determined that the proposed amendment of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 14.21-14.28 (1982).

The proposed amendments are authorized by Minn. Stat. § 116.07, subd. 4 (1982). The proposed amendments are published below.

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

Jeanine Willenbring
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7351

Interested persons have 30 days, specifically until November 17, 1983, to submit comments on the proposed amendments. The proposed amendments may be modified if the data and views submitted to the agency warrant modification and the modification does not result in a substantial change in the proposed amendments.

Unless seven or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. In the event that a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 14.11-14.20 (1982).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to Richard Sandberg, at the agency address previously stated (telephone: (612) 296-7316), no later than November 17, 1983. If a person desires to request a public hearing, the agency requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Upon adoption of the amendments by the agency board, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, and the final rule as adopted will be sent 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 amendments as adopted, should submit a written statement of such request to Richard Sandberg at the address previously stated.

You are hereby advised, pursuant to Minn. Laws 1983, ch. 188, "Small business considerations in rulemaking," that the proposed rule amendments may have an impact on some small businesses in Minnesota. The portion of the rule as revised which may affect small businesses relates to the establishment of procedures for adjustment of standards for visible emissions

(opacity). The agency believes that this portion of the rule will be beneficial to small businesses because it allows for relief from the opacity limitations where the source is in compliance with emission limitations and where the expenditure of additional money to meet opacity standards would not provide significant additional benefits to the ambient air quality.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (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

(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 contains 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
Minnesota Pollution Control Agency

Rule as Proposed

~~APC 26~~ MCAR § 4.0002 Definitions, abbreviations, applicability of standards, ~~access to premises, variances, opacity standard adjustment, and circumvention, severability.~~

(a) A. Definitions. As used in the state air pollution control regulations rules, the following ~~words shall~~ terms have the meanings ~~defined herein~~ given them except as expressly provided in a specific rule:

(1) 1. "Agency" means the Minnesota Pollution Control Agency as constituted ~~pursuant to~~ under Minnesota Statutes, section 116.02 ~~subd.~~, subdivision 1.

(2) 2. "Alternative method" means ~~any~~ a method of sampling and analyzing for an air pollutant which is not a Reference or Equivalent method but which has been demonstrated to the ~~agency's~~ director's satisfaction to, in specific cases, produce results adequate for its determination of compliance.

(3) 3. "Breakdown" means ~~any~~ a sudden and unavoidable failure of air pollution control equipment or process equipment ~~or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered breakdowns to operate as designed.~~

4. "Commenced" means that an owner or operator has undertaken a continuous program of construction, modification, or reconstruction, or has entered into a contractual obligation to undertake and complete, within a reasonable time, this program.

(4) 5. "Construction" means fabrication, erection, or installation of an ~~affected facility or an~~ emission facility ~~of which an affected facility is a part.~~

(5) 6. "Continuous monitoring system" means the total equipment used to continuously sample and condition (if applicable), to analyze, and to provide a permanent record of emissions or process parameters.

(6) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification ~~or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.~~

(7) 7. "Control equipment" means an "air ~~containment~~ contaminant treatment facility" or a "treatment facility" as those terms are defined in Minnesota Statutes, section 116.06 ~~subd.~~, subdivision 6.

(8) 8. "Director" means the ~~executive director and~~ chief executive officer of the agency as described in Minnesota Statutes, section 116.04.

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PROPOSED RULES

~~(9)~~ 9. "Emission facility" means any ~~building, facility, installation,~~ structure, work, equipment, machinery, device, apparatus, or other means whereby an emission is caused to occur.

10. "Emission source" means a single source whereby an emission is caused to occur.

~~(10)~~ 11. "Equivalent method" means ~~any~~ a method of sampling and analyzing for an air pollutant which has been demonstrated to the ~~agency's~~ director's satisfaction to have under specified conditions a consistent and quantitatively known relationship to the Reference methods set forth in Code of Federal Regulations, title 40 C.F.R., part 60, appendix A.

~~(11)~~ "Isokinetic sampling" means ~~sampling in which the linear velocity of the gas entering the sampling nozzle is equal to that of the undisturbed gas stream at the sample point.~~

~~(12)~~ "Method 1" means the test method for Sample and Velocity Traverses for Stationary Sources, set forth in 40 C.F.R. Part 60, Appendix A Reference Methods.

~~(13)~~ "Method 2" means the test method for Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube), set forth in 40 C.F.R. Part 60, Appendix A Reference Methods.

~~(14)~~ "Method 3" means the test method for Gas Analysis for Carbon Dioxide, Excess Air, and Dry Molecular Weight, set forth in 40 C.F.R. Part 60, Appendix A Reference Methods.

~~(15)~~ "Method 4" means the test method for Determination of Moisture in Stack Gases, set forth in 40 C.F.R. Part 60, Appendix A Reference Methods.

~~(16)~~ "Method 5" means the test method for Determination of Particulate Emissions from Stationary Sources, set forth in 40 C.F.R. Part 60, Appendix A Reference Methods.

~~(17)~~ "Method 6" means the test method for Determination of Sulfur Dioxide Emissions from Stationary Sources, set forth in 40 C.F.R. Part 60, Appendix A Reference Methods.

~~(18)~~ "Method 7" means the test method for Determination of Nitrogen Oxide Emissions from Stationary Sources, set forth in 40 C.F.R. Part 60, Appendix A Reference Methods.

~~(19)~~ "Method 8" means the test method for Determination of Sulfuric Acid Mist and Sulfur Dioxide Emissions from Stationary Sources, set forth in 40 C.F.R. Part 60, Appendix A Reference Methods.

~~(20)~~ "Method 9" means the test method for Visual Determination of the Opacity of Emissions from Stationary Sources, set forth in 40 C.F.R. Part 60, Appendix A Reference Methods.

~~(21)~~ "Method 10" means the test method for Determination of Carbon Monoxide Emissions from Stationary Sources, set forth in 40 C.F.R. Part 60, Appendix A Reference Methods.

~~(22)~~ "Method 11" means the test method for Determination of Hydrogen Sulfide Emissions from Stationary Sources, set forth in 40 C.F.R. Part 60, Appendix A Reference Methods.

12. "Existing facility" means an emission facility at which construction, modification, or reconstruction was commenced before the effective date of the applicable New Source Performance Standard or the applicable state air pollution control rule.

13. "Fugitive emissions" means pollutant discharges to the atmosphere that do not pass through a stack, chimney, or other functionally equivalent opening, at which a measurement of the emissions can be made using a Reference method other than Method 9.

~~(23)~~ 14. "Minneapolis-St. Paul Air Quality Control Region" means the ~~territorial~~ area encompassed by the boundaries of the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington. See ~~40 C.F.R. section~~ Code of Federal Regulations, title 40, part 81.27 (1982).

15. "Modification" means a physical change or a change in the operation of an emission facility that is not allowed under a permit, stipulation agreement, or an applicable air pollution control rule, and that results in an increase in the emission of an air pollutant.

~~(24)~~ 16. "Monitoring device" means the total equipment used to measure and record (if applicable) process or control equipment parameters.

17. "New facility" means an emission facility on which construction, modification, or reconstruction was commenced after the effective date of the applicable New Source Performance Standard or the applicable state air pollution control rule.

~~(25)~~ 18. "New Source Performance Standard" means a standard of performance for a new affected facility promulgated

PROPOSED RULES

by the administrator of the United States Environmental Protection Agency under the Clean Air Act, United States Code, title 42, section 7411, as amended.

(26) 19. "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide.

(27) 20. "One-hour period" means any 60-minute period commencing on the hour.

(28) 21. "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

(29) 22. "Owner or operator" means any a person who owns, leases, operates, controls, or supervises an affected facility or an emission facility of which an affected facility is a part.

(30) 23. "Particulate matter" means material, except uncombined water, which exists at standard conditions in a finely divided form as a liquor or solid.

(31) "Performance specification 1" means Performance Specifications and Specification Test Procedures for Transmission Systems for Continuous Measurement of the Opacity of Stack Effluents, set forth in 40 C.F.R. Part 60, Appendix B Performance Specifications.

(32) "Performance specification 2" means Performance Specifications and Specification Test Procedures for Monitors of SO₂ and NO_x from Stationary Sources, set forth in 40 C.F.R. Part 60, Appendix B Performance Specifications.

(33) "Performance specification 3" means Performance Specifications and Specification Test Procedures for Monitors of CO and O₂ from Stationary Sources, set forth in 40 C.F.R. Part 60, Appendix B Performance Specifications.

24. "Performance specification" means the specifications for continuous monitoring systems in Code of Federal Regulations, title 40, part 60, appendix B (1982).

(34) 25. "Person" means person as defined in Minnesota Statutes, section 116.06 subd., subdivision 8.

(35) "Proportional sampling" means sampling at a rate that produces a constant ratio of sampling rate to stack gas flow rate.

26. "Potential emissions" means the emissions from an emission facility, after control equipment has been applied, when the facility is operating at maximum design capacity and maximum hours of operation or as limited by enforceable permit conditions, whichever results in fewer emissions.

27. "Reconstruction" means replacement of depreciable components of an existing emission source to which a New Source Performance Standard or state air pollution control rule is applicable, to the extent that the fixed capital cost of the depreciable components exceeds 50 percent of the fixed capital cost of depreciable components that would be required to construct a comparable entirely new emission source.

28. "Reference method" or "Method" means the procedures for performance tests in Code of Federal Regulations, title 40, part 60, appendix A, (1982).

29. "Run" means the net period of time during which an emission sample is collected.

(36) 30. "Shutdown" means the cessation of operation of an emission facility; an affected facility or process control equipment for any purpose.

(37) "Six minute period" means any one of the ten equal parts of a one hour period.

(38) 31. "Smoke" means small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively of carbon and other combustible material, or ash, that form a visible plume in the air.

(39) "Startup" means the setting in operation of an emission facility, an affected facility or process equipment for any purpose.

(40) 32. "Standard conditions" means a temperature of 20°C degrees Celsius (68°F degrees Fahrenheit) and a pressure of 760 mm of Hg (29.92 in. of Hg).

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PROPOSED RULES

(41) ~~33.~~ "Standard of performance" means a restriction on the amount of air pollutants which may be emitted by an affected emission facility.

(42) ~~"Run"~~ means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

34. "Startup" means the setting into operation of an emission facility or control equipment for any purpose.

35. "State air pollution control rules" means 6 MCAR §§ 4.0001-4.0041 (Minnesota Rules APC 1-41).

36. "Total emission facility" means an assemblage of all emission sources on adjacent property that are under common ownership or control and that exist for a common function.

~~(b)~~ B. Abbreviations

The abbreviations, as used in these the state air pollution control regulations have rules, the following abbreviations have the meanings given them:

- (1) ~~avg.~~ average
- (2) 1. A.S.T.M., American Society for Testing and Materials;
- (3) ~~Be~~ Beryllium
- (4) 2. Btu, British thermal unit;
- (5) 3. °C, degree Celsius (centigrade);
- (6) 4. cal, calorie;
- (7) ~~CdS~~ cadmium sulfide
- (8) 5. cfm, cubic feet per minute;
- (9) 6. CO, carbon monoxide;
- (10) 7. CO₂, carbon dioxide;
- (11) 8. dscm, dry cubic meter(s) at standard conditions;
- (12) 9. dscf, dry cubic feet at standard conditions;
- (13) ~~eq~~ equivalents
- (14) 10. °F, degree Fahrenheit;
- (15) ~~ft²~~ square feet
- (16) ~~ft³~~ cubic feet
- (17) 11. g, gram(s);
- (18) ~~gal~~ gallon(s)
- (19) ~~g-eq~~ gram equivalents
- (20) 12. gr, grain(s);
- (21) ~~hr~~ hour(s)
- (22) ~~HCl~~ hydrochloric acid
- (23) 13. Hg, mercury;
- (24) ~~H₂O~~ water
- (25) 14. H₂S, hydrogen sulfide;
- (26) 15. H₂SO₄, sulfuric acid;
- (27) ~~I.D.~~ inside diameter
- (28) ~~in.~~ inch(es)

- (29) in. H₂O inches of water
 (30) in. Hg inches of mercury
 (31) K degree Kelvin
 (32) k 1,000
 16. J, joule;
 (33) 17. kg, kilogram(s);
 (34) 18. l, liter(s);
 (35) lpm liter(s) per minute
 (36) lb pounds(s)
 (37) M molar
 (38) 19. m, meter(s);
 (39) m³ cubic meter(s)
 (40) meq milliequivalent(s)
 (41) 20. mg, milligram(s);
 (42) min minute(s)
 (43) 21. ml, milliliter(s);
 (44) 22. mm, millimeter(s);
 (45) mol. wt. molecular weight
 (46) mV millivolt
 (47) N normal
 (48) 23. N₂, nitrogen;
 (49) nm nanometer(s) 10⁻⁹ meter
 (50) NO nitric oxide
 (51) 24. NO₂, nitrogen dioxide;
 (52) 25. NO_x, nitrogen oxides;
 (53) 26. O₂, oxygen;
 (54) O.D. outside diameter
 (55) oz ounce(s)
 (56) 27. ppb, parts per billion;
 (57) 28. ppm, parts per million;
 (58) 29. psia, pounds per square inch absolute;
 (59) R degree Rankine
 (60) s at standard conditions
 (61) sec second
 30. scf, cubic feet at standard conditions;

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PROPOSED RULES

- (62) 31. SO₂, sulfur dioxide;
- (63) SO₃ sulfur trioxide
- (64) 32. μg, microgram(s) (10⁶ gram).
- (65) v/v volume per volume
- (66) w.g. water gauge
- (67) yd² square yard(s)

(e) C. Applicability of standards of performance.

(1) Affected facilities. An "affected facility" is any equipment, apparatus, or process to which a standard of performance set forth in these air pollution control regulations is applicable. An affected facility may be an individual unit of process equipment, e.g., the clinker cooler in a portland cement plant, or an entire process, e.g., a nitric acid production unit. An affected facility may be an emission facility for which a permit is required under Minnesota Regulation APC 3.

(2) Existing facilities. An affected facility is an existing facility if:

(aa) It was in operation on the effective date of the applicable new source performance standard; or

(bb) The owner or operator of the affected facility commenced construction or modification of the affected facility prior to the effective date of the applicable new source performance standard for the affected facility.

(3) New facilities. An affected facility which is not an existing facility is a new facility.

(4) Effective date. The effective date for new source performance standards for affected facilities shall be as follows:

(aa) Fossil Fuel Fired Steam Generators (APC 4) August 17, 1971.

(bb) Incinerators (APC 7) August 17, 1971.

(cc) Storage Vessels for Petroleum Liquids (APC 13) June 11, 1973.

(dd) Sulfuric Acid Plants (APC 15) August 17, 1971

(ee) Nitric Acid Plants (APC 16) August 17, 1971

(ff) Portland Cement Plants (APC 22) August 17, 1971

(gg) Asphalt Concrete Plants (APC 23) June 11, 1973

(hh) Petroleum Refineries (APC 24) June 11, 1973

(ii) Secondary Lead Smelters (APC 25) June 11, 1973

(jj) Secondary Brass and Bronze Ingot Production Plants (APC 26) June 11, 1973

(kk) Iron and Steel Plants (APC 27) June 11, 1973

(ll) Sewage Sludge Incinerators (APC 28) June 11, 1973

(mm) All others the date the applicable new source performance standard became law.

(5) Modifications

(aa) A modification to an existing affected facility is any physical change in, or change in the method of operation of, an affected facility which increases the amount of emissions into the atmosphere of any air pollutant to which a new source performance standard applies or which results in the emission of any air pollutant not previously emitted, to which a new source performance standard applies.

(bb) Any owner or operator who modifies an existing affected facility after the effective date of an applicable new source performance standard shall comply with the new source performance standard for the affected facility for each pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere.

(cc) Emission rate shall be expressed as kg/hr of any pollutant discharged into the atmosphere for which a standard is applicable. The agency shall use the following to determine emission rate:

(i) Emission factors as specified in the latest issue of "Compilation of Air Pollutant Emission Factors," EPA Publication No. AP 42, or other emission factors determined by the agency to be superior to AP 42 emission factors, in cases where utilization of emission factors demonstrate that the emission level resulting from the physical or operational change will either clearly increase or clearly not increase.

(ii) Material balances, continuous monitor data, or manual emission tests in cases where utilization of emission

factors as referenced in paragraph (i) does not demonstrate to the agency's satisfaction whether the emission level resulting from the physical or operational change will either clearly increase or clearly not increase, or where an owner or operator demonstrates to the agency's satisfaction that there are reasonable grounds to dispute the result obtained by the agency utilizing emission factors as referenced in paragraph (i). When the emission rate is based on results from manual emission tests or continuous monitoring systems, the procedures specified in Appendix C Determination of Emission Rate Change, set forth in 40 C.F.R. Part 60, shall be used to determine whether an increase in emission rate has occurred. Tests shall be conducted under such conditions as the agency shall specify to the owner or operator based on representative performance of the facility. At least three valid test runs must be conducted before and at least three after the physical or operational change. All operating parameters which may affect emissions must be held constant to the maximum feasible degree for all test runs.

(dd) The requirements of subsection (5)(bb) shall not apply if the owner or operator who modifies an existing affected facility can demonstrate to the agency that modification of the affected facility will not result in an increase in total emissions from all existing emission sources in the process. The required reduction may be accomplished through the installation or improvement of a control system or through physical or operational changes to facilities including reducing the production of a facility or closing a facility. The director may require the submission of such information as the director deems necessary to a determination whether there will be an increase in total emissions.

(ee) The owner or operator of an existing affected facility may undertake any of the following modifications without being required to comply with the new source performance standard for the affected facility:

(i) Maintenance, repair, and replacement which the agency determines to be the routine.

(ii) An increase in production rate, if that increase can be accomplished without a major capital expenditure. "Capital expenditure" means an expenditure for a physical or operational change to an existing facility which exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in Internal Revenue Service Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code.

(iii) An increase in the hours of production.

(iv) Use of an alternative fuel or raw material if, prior to the effective date of the applicable new source performance standard, the existing facility was designed to accommodate that alternative use. A facility shall be considered to be designed to accommodate an alternative fuel or raw material if provisions for that use were included in the final construction specifications.

(v) Conversion to coal required by state or federal law for energy considerations.

(vi) The addition or use of any control equipment, except when control equipment is replaced with other control equipment which the agency determines to be less environmentally beneficial.

(vii) The relocation or change in ownership of an existing facility.

(ff) The modification of an affected facility or the addition of a new affected facility shall not by itself require the owner or operator to comply with the new source performance standards for other existing facilities.

(gg) Any owner or operator who modifies a new affected facility shall comply with the new source performance standard.

(hh) Nothing in this subsection (e) shall affect the requirement of Minnesota Regulation APC 3(e) that a permit be obtained from the agency to undertake certain alterations and modifications to emission facilities and control equipment.

(6) Reconstruction

(aa) The owner or operator of an existing affected facility who reconstructs the facility shall comply with the applicable new source performance standard for the reconstructed affected facility.

(bb) "Reconstruction" means the replacement of components of an existing facility to such an extent that:

(i) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility; and

(ii) It is technologically and economically feasible to meet the applicable standards set forth in this part.

(iii) "Fixed capital cost" means the capital needed to provide all the depreciable components.

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PROPOSED RULES

(iv) If an owner or operator of an existing facility proposes to replace components, and the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, he shall notify the agency of the proposed replacements. The notice must be postmarked 60 days (or as soon as practicable) before construction of the replacements is commenced and must include the following information:

1. Name and address of the owner or operator.
2. The location of the existing facility.
3. A brief description of the existing facility and the components which are to be replaced.
4. A description of the existing air pollution control equipment and the proposed air pollution control equipment.
5. An estimate of the fixed capital cost of the replacements and of constructing a comparable entirely new facility.
6. The estimated life of the existing facility after the replacements.
7. A discussion of any economic or technical limitations the facility may have in complying with the applicable standards of performance after the proposed replacements.

(ee) The agency shall consider the following in determining whether an existing facility has been reconstructed:

- (i) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility;
 - (ii) The estimated life of the facility after the replacements compared to the life of a comparable entirely new facility;
 - (iii) The extent to which the components being replaced cause or contribute to the emissions from the facility;
- and
- (iv) Any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.

(d) Access to premises and information

(1) The owner or operator of an emission facility shall allow the agency, or any authorized employee or agent of the agency, upon presentation of proper credentials, to examine and copy any books, papers, records or memoranda pertaining to the operation of the emission facility.

(2) The owner or operator of an emission facility shall allow the agency, or any authorized employee or agent of the agency, upon presentation of proper credentials, to enter upon the property of the owner or operator for the purpose of obtaining information or examining records or conducting surveys or investigations, whenever such entrance is necessary for the purpose of these regulations.

(e) Variances. Whereupon written application of the responsible person or persons the agency finds that by reason of exceptional circumstances strict conformity with any provisions of the emission standards contained herein would cause undue hardship, would be unreasonable, impractical or not feasible under the circumstances, the agency may permit a variance from these emission standards upon such conditions and within such time limitations as it may prescribe for prevention, control or abatement of air pollution in harmony with the intent of the state and any applicable Federal laws.

1. Existing facility. An owner or operator of an existing emission facility shall comply with all applicable state air pollution control rules for existing emission facilities.

2. New facility. An owner or operator who constructs, modifies, or reconstructs an emission facility shall comply with the New Source Performance Standards, if applicable, or the standards of performance for a new emission facility set forth in the state air pollution control rules.

3. Exception. For the purpose of the state air pollution control rules, the use of an alternative type of fuel or raw material is not a modification if the existing facility was designed to accommodate the alternative type of fuel or raw material. An emission facility is considered to be designed to accommodate an alternative type of fuel or raw material if that use could be accomplished under the facility's construction specifications as amended prior to the change.

D. Opacity standard adjustment.

1. Application for permit modification. An owner or operator of an emission facility may file an application for a permit modification under Minnesota rule APC 3 for adjustment of the opacity standard applicable to an emission source. In addition to the items required under Minnesota rule APC 3, the application must contain data that demonstrates that:

a. based on tests conducted under 6 MCAR § 4.0021, the emission source is in compliance with the applicable standard of performance for particulate matter and all other standards of performance, except the opacity standard;

b. the total emission facility is in compliance with all applicable standards of performance except the opacity standard at the emission source for which adjustment is being sought; and

c. the total emission facility was operated in a manner to minimize the opacity of emissions at the emission source during the performance tests conducted under a.

2. Atmospheric dispersion modeling. If the data submitted under 1. indicates that an adjustment of the opacity standard may cause or contribute to a violation of an ambient air quality standard, the agency shall require the owner or operator to conduct atmospheric dispersion modeling and include the results of the modeling in the application for a permit modification. However, a total emission facility that has potential emissions of particulate matter of less than 25 tons per year is not required to conduct modeling. Modeling must be performed according to Guidelines on Air Quality Models (OAQPS) No. 1.2-080, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, 1978) or methods that the director finds to be comparably reliable.

3. Opacity adjustment determination and permit modification. The agency shall set an adjusted opacity standard at the most restrictive level which the performance tests conducted under 1.a. and c. demonstrate the emission source is capable of meeting and shall modify the permit to establish the adjusted opacity standard, if the requirements of 1. and 2. are met and the total emission facility, with the adjusted opacity standard, would meet any one of the following:

a. not cause or contribute to a violation of an ambient air quality standard;

b. have potential emissions of particulate matter of less than 25 tons per year and less than one ton per day; or

c. contribute less than one $\mu\text{g}/\text{m}^3$ to an annual ambient particulate matter standard violation or less than five $\mu\text{g}/\text{m}^3$ to a 24-hour ambient particulate matter standard violation.

~~(f) E. Circumvention. No person shall cause or permit the installation or use of any device or any means which, without resulting in reduction in the total amount of air contaminants emitted, conceals or dilutes an emission of air contaminant which would otherwise violate an air pollution control regulation.~~

~~(g) Severability. If any provision of any regulation or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of such regulation or any other regulation which can be given effect without the invalid provision or application, and to this end the provisions of all regulations and the various applications thereof are declared to be severable.~~

1. Concealment or dilution. No owner or operator may install or use a device or means that conceals or dilutes emissions, which would otherwise violate a federal or state air pollution control rule, without reducing the total amount of pollutant emitted.

2. Dispersion techniques. An owner or operator may only use dispersion techniques allowed under the Clean Air Act, United States Code, title 42, section 7423, as amended, and implemented in Code of Federal Regulations, title 40, parts 51.1 (ii) and 51.12 (j)-(1) (1982) to calculate compliance with the ambient air quality standards set out in 6 MCAR § 4.0001 or with the regulations regarding prevention of significant deterioration (PSD) set out in Code of Federal Regulations, title 40, part 52.21 (1982).

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ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 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. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under § 14.18.

State Board of Education Department of Education Special Services Division

Adopted Temporary Rule Governing Public Library Construction Grants

The temporary rule proposed and published at *State Register*, Volume 8, Number 5, pages 144-149, August 1, 1983 (8 S.R. 144) is adopted with the following modifications:

5 MCAR § 1.0807 [Temporary] Public library construction grants.

C. Application contents. The application must include the following:

1. A copy of:

c. a building program ~~statement~~. This is a guide for the project's architect to the purposes, functions, and operations of the library building that is to result from the project in terms of space and environmental requirements and characteristics and relationships among spaces within the library building;

d. when the project involves new construction or renovation of an existing building for new use as a public library, a report of a library building consultant. The consultant may be an employee of the applicant's library system and must be a professional librarian with at least a master's degree in library science, five years of public library experience, and the experience of having supervised the planning and construction of at least ~~two~~ one public library building within the past ~~five~~ three years;

g. preliminary plans for the project, including a site plan and vicinity maps, subsurface soil analysis, ~~and preliminary design drawings~~ schematic design studies, and outlined specifications prepared by a Minnesota registered architect;

G. Minimum project sizes.

1. For new construction ~~and for renovation of an existing building for use as a public library~~, the minimum project size is a total project cost of at least \$50,000 ~~and a. The resultant building of at least 2,500 square feet.~~ shall have a minimum total floor space in relation to population to be served as follows:

<u>Population</u>	<u>Minimum Total Floor Space</u>
<u>Up to 4,999</u>	<u>2,500 square feet or 0.7 square feet per capita, whichever is greater</u>
<u>5,000-9,999</u>	<u>3,500 square feet or 0.7 square feet per capita, whichever is greater</u>
<u>10,000-24,999</u>	<u>7,000 square feet or 0.7 square feet per capita, whichever is greater</u>
<u>25,000-49,999</u>	<u>15,000 square feet or 0.6 square feet per capita, whichever is greater</u>
<u>50,000 and above</u>	<u>0.6 square feet per capita</u>

If library functions such as acquisitions, cataloging, and processing are provided elsewhere, the minimum total floor space may be reduced by five percent. If a community meeting room is available for library use in a nonlibrary portion of the building or in an adjacent building, or if heating and cooling equipment are housed outside the library building, or both, the minimum total floor space may be reduced by five percent.

2. For ~~an~~ renovation of an existing building for use as a public library, addition to a public library building, renovation of

an existing public library building, removal of architectural barriers for physically disabled persons, renovation for energy efficiency, and renovation, remodeling, or construction of an addition to a public library building originally constructed with assistance from Library Services and Construction Act (LSCA) Title II funds, the minimum project size is a total project cost must be of at least \$25,000 and. The resultant library building must be at least 2,500 square feet. shall have a minimum total floor space in relation to the population to be served as follows:

<u>Population</u>	<u>Minimum Total Floor Space</u>
<u>Up to 2,499</u>	<u>1,200 square feet or 0.7 square feet per capita, whichever is greater</u>
<u>2,500-4,999</u>	<u>2,500 square feet or 0.7 square feet per capita, whichever is greater</u>
<u>5,000-9,999</u>	<u>3,500 square feet or 0.7 square feet per capita, whichever is greater</u>
<u>10,000-24,999</u>	<u>7,000 square feet or 0.7 square feet per capita, whichever is greater</u>
<u>25,000-49,999</u>	<u>15,000 square feet or 0.6 square feet per capita, whichever is greater</u>
<u>50,000 and above</u>	<u>0.6 square feet per capita</u>

If library functions such as acquisitions, cataloging, and processing are provided elsewhere, the minimum total floor space may be reduced five percent. If a community meeting room is available for library use in a nonlibrary portion of the building or in an adjacent building, or if heating and cooling equipment are housed outside the library building, or both, the minimum total floor space may be reduced by five percent.

H. Recent construction ineligible. No grant shall be made for a project involving a public library building on which construction was completed after October 15, 1978.

~~H. I.~~ I. Maximum federal share. LSCA Title II funds may constitute up to 50 percent of the total project cost. No grant shall exceed \$200,000.

~~J.~~ J. Project criteria. The project site, design, and size as proposed in the application must meet the following criteria.

3. The interior of the library must be:

g. Lighted at 50 to 70 sustained foot-candles at table-top height in public service areas and 30 to 50 sustained foot-candles at table-top height in storage areas, with lights evenly distributed and of a quality to provide adequate light without glare;

h. In a new library building, designed on a single ground floor level; If the new library building size exceeds 20,000 square feet, a second floor is permitted.

~~4. The total floor space of the building and the amount of space for shelving, readers, staff work space, and additional space shall be calculated using the following guidelines for determining minimum space requirements.~~

**GUIDELINES FOR DETERMINING MINIMUM
SPACE REQUIREMENTS**

~~(a) Libraries in systems need only to provide shelving for basic collection plus number of books on loan from resource center at any one time.~~

~~(b) A standard library shelf equals 3 linear feet.~~

~~(c) Space for circulation desk, heating and cooling equipment, multipurpose room, stairways, janitors' supplies, toilets, etc., as required by community needs and the program of library services.~~

~~* 0.6 square feet per capita can be applied as an adequate minimum for communities over 50,000 population.~~

~~5. 4.~~ 4. The director of OPLIC shall notify each applicant of any criterion which is not met by the project and shall recommend to the applicant action to be taken so that the criterion can be met.

~~J.~~ K. Project priorities.

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1. Applications meeting all requirements in 5 MCAR § 1.0807 [Temporary] shall be divided into the following categories in order of priority:

a. Applications for projects in counties ~~having an average unemployment rate of 9.4 percent or above during the period June through November, 1982,~~ where the average unemployment rate by months for June through November, 1982 and the average unemployment rate by months for June through August, 1983, when averaged is 9.4 percent or above, according to unemployment data compiled by the Minnesota Department of ~~Employment~~ Economic Security.

b. Applications for projects in counties ~~having an average unemployment rate of more than 7.0 percent but less than 9.4 percent during the period June through November, 1982,~~ where the average unemployment rate by months for June through November, 1982 and the average unemployment rate by months for June through August, 1983, when averaged is ~~more than 7.0 percent but less than 9.4 percent,~~ according to unemployment data compiled by the Minnesota Department of ~~Employment~~ Economic Security.

2. Within each category, projects shall be divided into the following subcategories and funded in order within a subcategory from highest to lowest average unemployment rate as calculated in 1. above in the following order of priority:

3. If two or more projects within any subcategory are from geographic areas having identical average unemployment rates as calculated in 1. above, priority shall be assigned based on the population of the city in which the library is located as reported in the 1980 United States Census of Population, in order from largest number of persons to smallest number of persons.

~~K.~~ L. Approval of projects. The director of OPLIC shall make recommendations to the State Board of Education which shall approve or disapprove proposed library construction projects based on criteria specified in 5 MCAR § 1.0807 [Temporary]. The Commissioner of Education shall notify the United States Department of Education of the approved projects.

~~L.~~ M. Hearing. An applicant whose application for funds is denied may request a hearing within ten days of receipt of notification of denial from the State Board of Education.

~~M.~~ N. Grant agreements.

Minnesota Pollution Control Agency

Adopted Revision to 6 MCAR § 4.8034 Relating to the Administration of Federal Grant Funds and State Grant and Loan Funds for Municipal Sewage Treatment Projects

The rule proposed and published at *State Register*, Volume 7, Number 45, pages 1595-1621, May 9, 1983 (7 S.R. 1595) is adopted with the following modifications:

Rules as Adopted

6 MCAR § 4.8034 Rule for the administration of the Minnesota State Water Pollution Control Fund and federal grant funds allotted to Minnesota.

B. Definitions. For the purpose of this rule, the following terms have the meanings given them.

1. The terms "person," "sewage," "industrial wastes," "other wastes," "treatment works," "sewer system," "disposal system," "waters of the state," "pollution control fund," "municipality," "director," "agency," "pollution of water," "eligible cost," ~~"wastewater,"~~ "wastewater treatment facility," as well as any other pertinent terms for which definitions are given in Minnesota Statutes, chapters 115 and 116 have the meanings ascribed to them therein.

22. A "major contributing industry" means an industrial user of a treatment facility that:

a. has a rated flow of 50,000 gallons or more per work day ~~on the average~~ where the rated flow is the daily design flow multiplied by 24 and divided by the actual hours or discharge in a day;

b. has a rated flow greater than five percent of the total design flow to the treatment works;

d. has in its waste before pretreatment a toxic pollutant in toxic amounts as defined in standards issued by the U.S. Environmental Protection Agency under section 307(a) of the act in excess of what may be discharged to waters of the state; or

e. is found by the agency in connection with the issuance of an NPDES/SDS permit to the municipality, either singly or in combination with other contributing industries, to interfere with the treatment plant's ability to meet effluent limitations,

interfere with digester operation or biological unit process operation, impact the area required for sludge disposal, or increase sizing of the facility by five percent or more.

24. "Wastewater" means sewage, industrial waste, and other wastes collected for treatment in a disposal system.

25. "Adverse impact" means the violation of any water quality standard or an objectionable growth of weeds, algae, or rough fish or any deleterious effect on the physical, chemical, or biological condition of the receiving water that lessens the present or long-term uses of the receiving water.

26. Other terms and abbreviations used herein which are not specifically defined by law shall be construed in conformance with the context and professional usage.

D. Summary of construction grants program.

4. The agency develops and maintains a municipal needs list that ranks in order of priority all municipalities within the construction grants program for which a need exists.

E. Municipal needs list.

1. The ~~director~~ agency shall develop and maintain a municipal needs list of municipalities that have a need for a new or upgraded disposal system.

4. The ~~director~~ agency shall review each petition and add to the municipal needs list each municipality for which a need has been found to exist. If the ~~director~~ agency determines that a need does not exist, the municipality shall not be added to the list and the ~~director~~ agency shall notify the municipality of the reasons for the determination.

H. Priority points for type of project.

2. Description of project types.

a. New plant. A new tertiary treatment plant is a plant designed to meet tertiary treatment standards ~~and constructed~~ for which construction was commenced after July 1, 1983. A new secondary treatment plant is a plant designed to meet secondary treatment standards ~~and constructed~~ for which construction was commenced after July 1, 1983. Land application systems and stabilization ponds that are proposed as an alternative to tertiary and secondary treatment plants that discharge to waters of the state are considered tertiary treatment and secondary treatment for purposes of project priority. Whether a land application system or stabilization pond is a tertiary or secondary treatment system is determined as based on the effluent limitations applicable to discharges to the receiving water. Subsurface disposal systems, including septic tanks, designed to treat an average daily flow of not more than 1,000 gallons and the drainfield portion and one central septic tank to treat an average daily flow in excess of 1,000 gallons are considered secondary treatment for purposes of project priority.

d. Sewer system rehabilitation. A sewer system rehabilitation project is a project that repairs or replaces an existing collector or interceptor sewer in order to eliminate bypasses caused by insufficient hydraulic capacity in existing separate sanitary sewers by transporting infiltration and inflow to a wastewater treatment facility or to reduce the hydraulic capacity of the wastewater treatment plant and includes flow equalization systems, relief sewers, and relief capacity sewers.

3. Special restrictions for sewer system projects.

a. Sewer system rehabilitation. In order for a sewer system rehabilitation project is not to be eligible for priority points under section H.1.b. or H.1.f. unless, the municipality has must not have obtained a construction grant for treatment plant construction since at least February 11, 1974, the municipality's existing treatment plant is hydraulically overloaded, and sewer system rehabilitation is must be justified by an infiltration/inflow analysis and sewer system evaluation survey that complies with the requirements of Code of Federal Regulations, title 40, section 35.2120, as amended through December 31, 1982.

I. Extra points. In addition to the priority points a municipality is entitled to for its project, the following extra points shall also be awarded to a qualifying municipality:

2. Existing level of treatment. A qualifying municipality shall be awarded extra points under one of the provisions below for its existing level of treatment.

a. No treatment. A municipality that presently has a central collection system serving 50 percent or more of the

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ADOPTED RULES

population but provides no treatment prior to discharge, or a municipality which collects an average daily flow exceeding one million gallons through a system without combined sewers and which has bypassed sewage more than 40 percent of the time over a period of at least two years while its plant is operating at full capacity, shall be awarded 40 extra points.

3. Watershed pollution abatement plan. A municipality that proposes a project that is an integral part of a watershed pollution abatement plan shall be awarded 15 extra points. A watershed pollution abatement plan is a plan prepared by a watershed district or watershed management organization and approved by the Minnesota Water Resources Board and includes the following:

b. statewide water quality management plan goals and objectives, including the best management practices.

A municipality is not entitled to 15 extra points under this provision unless the watershed district or watershed management organization has adopted specific rules to implement the watershed abatement plan and the plan has been updated in the last ten years. If a project is part of several watershed districts or management organizations, all of the watershed districts or management organizations must have satisfied the above criteria in order for the municipality to receive the extra points.

4. Outstanding resource value waters. A municipality that discharges to or ~~adversely affects~~ has an adverse impact upon an outstanding resource value water shall be awarded ten extra points. An outstanding resource value water is Lake Superior, any water in the Boundary Waters Canoe Area Wilderness or Voyageurs National Park, and all federal and state designated wild, scenic, or recreational river segments.

5. Game fish lakes. A municipality proposing to undertake a project that will result in the elimination of a discharge to a game fish lake or ~~that will adversely affect~~ the elimination of a discharge that has an adverse impact on a game fish lake shall be awarded ten extra points. A game fish lake is a lake managed for propagation of game fish species and used for fisheries and recreation. There may be occasional but not regular winter kill in a game fish lake.

7. Existing advances of allowance. Any municipality that received an advance of allowance prior to July 1, 1983, shall be awarded 20 extra points for the project covered by the advance of allowance.

L. Municipal project list.

2. A municipality that requests project placement on the municipal project list shall submit to the agency by July 1 prior to the beginning of the fiscal year for which the municipal project list is prepared, an approvable facilities plan if the grant sought is a Step 2+3 grant and approvable plans and specifications if the grant sought is a Step 3 grant. No municipality may be listed on the municipal project list unless the municipality has submitted the necessary facilities plan or plans and specifications.

3. The agency shall prepare a proposed municipal project list of municipalities on the municipal needs list that have submitted approvable facilities plan or plans and specifications in conventional order of priority until the cost of the proposed projects reaches the full allotment of federal construction grant funds available for the fiscal year. In preparing the list, the agency shall consider the percentage of the cost of the projects that will be paid for by a federal construction grant, as determined by requirements of the act and decisions of the governor under the act to uniformly reduce the federal share of grant assistance.

N. Project eligibility.

3. Cost-effectiveness. A project is not eligible for a grant unless the agency determines that the project is a an environmentally acceptable cost-effective means of handling the municipality's wastewater. The agency shall not award a grant to pay for those portions of a project that are not environmentally acceptable and cost-effective.

O. Adjustments in the municipal project list. Notwithstanding any other provision in this rule, the director may ~~establish criteria for determining priority for applications for federal and state construction grants upon a basis other than that provided in this rule if the criteria complies with the act, EPA regulations and guidelines, and Minnesota Statutes, chapters 115 and 116, as necessary to establish criteria for determining priority for applications for federal and state construction grants under the act, under regulations and guidelines of the Environmental Protection Agency promulgated under the act, and under Minnesota Statutes, chapters 115 and 116, establish such criteria for determining priority upon a basis other than that provided herein, to the extent required to comply with the act, and with guidelines and regulations under or resulting from the act.~~

P. Public participation.

4. Interested persons may present oral ~~or written~~ statements to the board at the board meeting ~~if a request to do so is submitted to the agency at least three days before the meeting~~. The agency chairperson may place reasonable restrictions upon the time and manner in which oral comments are submitted. ~~If a request to present oral or written statements is made at the board meeting, the agency may allow participation in a manner established by the chairperson~~ Written statements may be served on the director any time up to five days before the meeting.

Q. Grant applications.

3. The agency shall notify in writing each municipality on the municipal project list and each municipality on the reserve project list of its placement on the appropriate list. No municipality shall submit a construction grant application unless the municipality has been notified by the agency that it is on the municipal project list.

4. A municipality that applies for a Step 2+3 grant shall, in addition to submitting the completed application form, submit the following information for agency review and approval:

c. A resolution by the governing body of the municipality resolving that the sewage collection system will, at the appropriate time, be constructed concurrently with the sewage treatment works if the collection system is not part of the project to be funded and the municipality does not already have a collection system;

h. A certification from the municipality that the municipality shall:

(1) prohibit unpolluted water connections to the municipality's sanitary sewer system in the future; and

(2) inspect new connections to the sanitary sewer system throughout the municipality's jurisdiction to ensure that the connections ~~are air tight and water tight~~ and conform to the Minnesota Plumbing Code, found in the rules of the department of health, MHD 120-134, and ~~to~~ 7 MCAR § 1.135;

i. If more than one municipality is involved in the grant application, the resolutions required in a.-h. must be submitted for each municipality involved in the project. In addition, the municipalities shall submit an unexecuted intermunicipal agreement that sets forth the terms and conditions of joint treatment and the cost-sharing methodology.

~~±~~ j. An opinion from the municipality's attorney that the municipality has the legal authority to construct, assess, operate, maintain, and replace the wastewater treatment facilities;

~~±~~ k. Other documents that are required by EPA regulation or other requirements of the act.

5. A municipality that applies for a Step 3 grant shall, in addition to submitting the completed application form, submit the following information for agency review and approval:

b. A sewer service charge system comprised of a user charge system, including a proposed financial management system, and a system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs attributable to the wastewater treatment works to be constructed.

U. ~~Construction without grants~~ Preparation of plans without a grant.

1. A municipality ~~that elects to develop~~ developing a facilities plan for a project ~~without a federal or state grant~~ shall:

2. A municipality ~~that elects to develop~~ developing plans and specifications for a project without a federal or state grant shall notify the agency in writing of its intention to develop plans and specifications for its project. The agency shall review the scope of the proposed project and changes from the previously approved facilities plan and advise the municipality whether the project complies with applicable technical, administrative, and public participation requirements.

V. Advances of allowance.

7. A municipality that receives an advance of allowance but does not subsequently receive a Step 3 grant for the project shall reimburse the state the amount of the advance unless the project is constructed with other funds.

W. Grant amendments.

2. The agency may approve a grant increase when a municipality has solicited contracts that exceed the cost estimated in the application. The agency shall approve the grant amendment if funds are available and the ~~cost overruns~~ costs are eligible and reasonable. After the grant has been amended to reflect the as-bid costs, only cost overruns caused by unanticipated site conditions shall be eligible for funding through grant amendments, and the grant amendment shall be limited to two percent of the as-bid costs.

X. The director shall give a prior approval for a proposed change in the contract if the change:

- ~~1- results in a cost increase greater than the base contract plus contingencies as stated in the project summary; or~~
- ~~2- substantially alters the type, efficiency, versatility, or reliability of the treatment process.~~

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

Prior approval of a proposed change is not required if the director agrees the change is of an emergency nature.

Change orders that do not require prior approval shall be submitted within one month after the date on which the change is ordered by the applicant, its engineer, or other authorized agent for review and approval. Change orders. Any proposed changes in the contract which result in cost increases greater than that of the base contract plus contingencies as stated in the project summary or other proposed changes regardless of cost which substantially alter the type of treatment process, or its efficiency, versatility, or reliability, must be submitted to the director for prior approval, except where the work is agreed by the director to be of an emergency nature. Change orders not requiring prior approval of the director must be submitted within one month after the date on which the change is ordered by the applicant, its engineer, or other authorized agent for review and approval.

Y. Payment of state grant funds.

1. Step 2 grants advance of allowance and the Step 2 portion of Step 2+3 grants.

a. The agency shall pay 50 percent of a Step 2 advance of allowance and the Step 2 portion of a Step 2+3 state grant when adequate plans and specifications have been received by the director. The balance of the Step 2 portion must be paid when the agency and the EPA approve of the plans and specifications and after final payment of the Step 2 portion has been paid by the EPA.

Department of Public Welfare Bureau of Income Maintenance

Adopted Temporary Rules Governing the General Assistance Program and Notification and Referral to the Minnesota Emergency Employment Development Act Program

The rules proposed and published at *State Register*, Volume 8, Number 9, pages 325-333, August 29, 1983 (8 S.R. 325) are adopted with the following modifications:

Temporary Rules as Adopted

12 MCAR § 2.05501 [Temporary] Authority and applicability.

A. Authority.

4. Laws of Minnesota 1983, chapter 312, article 8, section 10 authorizes the commissioner to adopt rules and temporary rules governing:

a. reasonable periods of disqualification from general assistance for a recipient who fails to comply with the registration and work requirements of 12 MCAR § 2.05504 [Temporary] ~~A. and B.~~;

~~8. Minnesota Statutes, section 268.74, subdivision 5 authorizes the commissioner to adopt rules including temporary rules to inform applicants for, and recipients of, aid to families with dependent children of the availability of the MEED program, and to refer persons required to register for the work incentive program to the MEED program.~~

B. Applicability. Rules 12 MCAR §§ 2.05501-2.05509 [Temporary] establish the rights and responsibilities of the Department of Public Welfare, local welfare agencies, and recipients of general assistance concerning registration and work requirements, participation in the Minnesota Emergency Employment Development Act program, establishes standards of assistance, and authorizes local agencies to enter into a contract with the Department of Economic Security to determine the eligibility of MEED program applicants for an allowance, and shall be read together and with 12 MCAR § 2.055 for purposes of administering the general assistance program. To the extent that 12 MCAR §§ 2.05501-2.05509 [Temporary] conflict with 12 MCAR § 2.055, 12 MCAR §§ 2.05501-2.05509 [Temporary] shall prevail.

~~Rule 12 MCAR § 2.04422 [Temporary] establishes the responsibility of the Department of Public Welfare to notify recipients of aid to families with dependent children of the benefits of the MEED program and the responsibility of the Department of Economic Security to coordinate MEED services with the work incentive program.~~

12 MCAR § 2.05502 [Temporary] Definitions.

The terms defined in this section have the meanings given them unless otherwise provided or indicated by the context.

A. Advanced age. "Advanced age" means a person who is recipient:

1. who is age 55 or above whose recent work history shows a marked deterioration compared to that prior to age 55, as indicated by decreasing occupational status, reduced hours of employment, or decreased periods of employment; or

2. who has been evaluated by a vocational specialist or expert as having significant limitations to his or her ability to obtain or retain suitable employment due to advanced age.

The local agency shall inform the recipient of services provided by the division of vocational rehabilitation of the Department of Economic Security, and, upon request, shall refer the recipient to that agency.

D. Assistance unit. "Assistance unit" means the individuals sharing living arrangements who are eligible for general assistance. An assistance unit includes only responsible relatives and the children of either of those individuals who are eligible for general assistance.

I. Employment-related educational program. "Employment-related education program" means training which:

1. is taken subsequent to establishing a vocational goal; and
2. ~~shall~~ has a course of study that does not exceed 24 consecutive months in duration; and
3. will cause the trainee to be employable upon completion; and
4. is for an occupation for which it is anticipated that job openings shall exist upon completion of training; and
5. shall lead to employment in a location to which the trainee is willing to reside or travel if the employment is not available within the trainee's location; and
6. requires the trainee to be a full-time student; and
7. is within the trainee's physical and mental capabilities; and
8. shall lead to earnings greater than the assistance standard; and
9. is located in Minnesota or, if not located in Minnesota, the training has been approved by the director of the local agency or his or her designee; and
10. is undertaken to develop employment skills; and
11. is provided through an institution or facility licensed or accredited by ~~the~~ a state commissioner of the Department of education, or is provided by a state agency or its designee which provides education or employment services; or
12. includes high school education.

J. Full-time student. "Full-time student" means ~~attending training~~:

1. attending training for a minimum of 25 hours per week if the training does not involve shop practice and for a minimum of 30 hours per week if the training involves shop practice for a high school or a trade or technical student; or
2. registering for and ~~completing~~ passing 12 semester hours per semester or 12 quarter hours per ~~semester or quarter~~ for a college student.

K. Good cause. "Good cause" means circumstances beyond the recipient's control, such as, but not limited to: illness, illness of another family member which requires the recipient's presence, a ~~household~~ family emergency, or ~~lack of the inability~~ to obtain transportation.

L. Local agency. "Local agency" means the county welfare boards in the several counties of the state except that it ~~may~~ also ~~include~~ includes any multi-county welfare boards or departments where those have been established in accordance with law.

P. Negotiated rate. "Negotiated rate" is a general assistance payment which includes room and board and which is either set by the state or local agency or is negotiated by one of those agencies with a party not included in the assistance unit. The set or negotiated rates are deemed to provide for an assistance unit's shelter, fuel, food, utilities, and household supply need items. The rate shall contain only those items. It shall not include payments for foster care, child welfare services, medical care, dental care, hospitalization, nursing care, drugs or medical supplies, program costs, or other social services.

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ADOPTED RULES

Q. Recipient. "Recipient" means a person who is currently receiving assistance under the general assistance program.

~~Q.~~ R. Responsible relative. "Responsible relative" means a person who has financial responsibility for another. Financial responsibility exists between spouses and by parent for child.

~~R.~~ S. Suitable employment. "Suitable employment" means a job that:

1. meets existing health and safety standards; and
2. a person can physically and mentally perform; and
3. pays at least the minimum wage prescribed by state or federal law and provides more than 60 hours of work per month; ~~and or~~ or

12 MCAR § 2.05503 [Temporary] Payments.

A. State standard. The state assistance standard shall be the combined minimum standards for shelter and basic needs which were in effect on February 1, 1983, for ~~persons or families~~ assistance units who secure their own housing in the community.

~~1.~~ Except as set forth in ~~2.~~ 2., the ~~standards are~~ assistance standard is the minimum amounts used to determine a monthly grant and to determine the amount of state participation. The following table is the ~~grant~~ state assistance standard:

STATE ASSISTANCE STANDARDS

Assistance

Unit

Size 1 2 3 4 5 6 7 8 9 10

~~Grant~~ Assistance

Amount \$199 \$260 \$305 \$343 \$381 \$424 \$452 \$488 \$519 \$548

Over 10—add \$28 per person

~~2.~~ The ~~assistance unit and~~ assistance unit and assistance amount shall be based on the ~~number of general assistance recipients who are legally responsible relatives sharing a residence~~ size of the assistance unit. The general assistance grant is paid in an amount equal to the difference between the applicable assistance standard and countable income. The local agency shall not ~~after~~ reduce the amount of the grant in relation to living arrangements except as in B.

B. Clothing and personal needs standard. Recipients residing in facilities with negotiated rates shall be eligible for a clothing and personal needs allowance equal to that which is provided to medical assistance recipients under Minnesota Statutes, section 256B.35, subdivision 7.

C. Payments for recipients living in facilities with negotiated rates that have been set or negotiated by the state or local agency and emergency general assistance. ~~In addition to the negotiated rate, the local agency shall determine grant amounts based upon the following:~~ State participation is available for payments of negotiated rates and for payments of emergency general assistance made pursuant to Minnesota Statutes, sections 256D.06, subdivision 2, and 256D.07.

~~1.~~ Recipients who obtain only shelter from a provider with whom there is an established rate shall receive a grant for basic needs.

~~2.~~ Recipients who obtain shelter and some basic needs, such as utilities or food, from a provider with whom there is an established rate, shall receive a grant for basic needs less any items covered under the established rate. The reduction from the basic needs allowance shall be in the amounts in effect on February 1, 1983.

~~3.~~ In no event shall the recipient receive less than the personal needs allowance paid under the medical assistance program.

~~C.~~ Clothing and personal needs allowance. Recipients assisted under local agency negotiated room and board rates shall be eligible for a clothing and personal needs allowance equal to that which is provided to medical assistance recipients under Minnesota Statutes, section 256B.35, subdivision 7.

D. Local standards payments. Local agencies may establish standards payment levels in excess of the state assistance standards, ~~or and~~ and may provide special need items. These costs are not eligible for state participation.

12 MCAR § 2.05504 [Temporary] Registration and work requirements.

A. Requirement. Unless exempt, the local agency shall refer all adult recipients who are unemployed or who are not suitably employed ~~but whose countable income is less than the state assistance standards or a higher standard established by the local agency~~ to the Department of Economic Security for registration and employment assistance.

B. Referrals. Referrals to the Department of Economic Security by the local ~~county~~ agency shall be made on a form prescribed by the commissioner of public welfare, which shall be written in plain and easily understood language and shall include:

6. a notice of actions to be taken if the recipient does not comply with the registration and work requirements of C. and E.; ~~and~~

7. a notice of exemption or nonexemption from the registration and work requirements of C. and E.; and

8. an explanation of the recipient's appeal rights.

C. Registration requirement. Recipients who are referred by the local agency for employment assistance are required to register for employment services with the Department of Economic Security. Verification of the registration must be returned to the local agency by the recipient within 15 calendar days of the date on which the grant is issued in order to continue general assistance payments for which he or she would otherwise be eligible.

Registration for employment services must be maintained to continue general assistance eligibility. The recipient must obtain and provide verification as part of the local agency's redetermination of eligibility.

D. Failure to meet registration requirements. If the local agency has not received verification within 15 days, it shall contact the Department of Economic Security to determine if the ~~person~~ recipient has ~~not~~ registered. If the Department of Economic Security verifies that the ~~person~~ recipient has registered, the ~~person~~ recipient shall be considered to have met the registration requirement. If the Department of Economic Security verifies that the recipient has not registered, ~~the~~ that department shall provide a written statement indicating that the recipient has not registered. Such a statement will establish the recipient's failure to comply with the registration requirement and the local agency shall provide the recipient with timely notice of termination from assistance. Appeals regarding failure to register without good cause will be heard by the Department of Public Welfare pursuant to Minnesota Statutes, section 256.045.

F. Failure to meet work requirements. The Department of Economic Security shall determine whether or not a recipient complies with the work requirements of that department. If the commissioner of the Department of Economic Security certifies that the recipient has failed to meet the work requirements, the local agency shall provide the recipient with timely notice of termination from assistance.

Hearings held regarding compliance with the work requirements shall be heard by the Department of Economic Security. Neither the local agency nor the recipient may appeal the final determination of noncompliance ~~shall be binding upon the local agency to the commissioner of public welfare.~~

G. Disqualification. A recipient who has not complied with the registration or work requirements of C. ~~and~~ or E. shall be disqualified from receiving general assistance. General assistance medical care may continue without separate application during the period of disqualification.

H. Notice of disqualification. The local agency shall give the recipient timely, advance notice of any planned grant reduction, suspension, or termination due to noncompliance. The notice must:

3. clearly state in plain and easily understood language what action the local agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which assistance can be continued pending an appeal.

I. Appeal of disqualification. A recipient who is being disqualified from receiving general assistance because he or she has not complied with the registration or work requirements of C. and E. may appeal the decision by submitting a written request for a hearing to the department or the local agency pursuant to Minnesota Statutes, section 256.045. A recipient who appeals the disqualification shall, if otherwise eligible, continue to receive ~~monthly grants~~ general assistance until the final determination is made, if the hearing request is submitted on or prior to the effective date of the ~~determination~~ disqualification.

J. Period of disqualification. A recipient who, ~~without good cause,~~ has not complied with the registration ~~and~~ or work requirements of C. ~~and~~ or E. shall be disqualified from receiving general assistance for the periods specified in 1.-5.

2. Ninety days for ensuing occurrences if it occurs one calendar year within 12 months from the end of any prior disqualification period. If a subsequent disqualification occurs one calendar year more than 12 months from the first end of any prior disqualification period, the disqualification shall be treated as a first occurrence.

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ADOPTED RULES

3. Effective dates. The disqualification period begins on the effective date of the notice required in H. unless the recipient appeals on or prior to that date. If the recipient appeals and assistance is continued but the recipient is not upheld, the period of disqualification begins with the first full month following the final determination of noncompliance.

5. If a recipient complies with the registration or work requirements and verifies that compliance after receiving a notice of adverse action and on or prior to its effective date, assistance shall be continued without a period of disqualification.

If otherwise eligible, a ~~person~~ recipient who complies with, or becomes exempt from, the registration or work requirements during a ~~first~~ disqualification period may receive general assistance as of the date that the agency receives verification of compliance or exemption. The disqualification is counted if there is a subsequent occurrence of noncompliance.

K. Vouchers and vendor payments. The local agency shall use vouchers and/or vendor payments to meet the financial needs of eligible family members of a ~~person~~ recipient who is disqualified subject to G. The grant amount provided to the family shall be based upon the remaining number of eligible family members in the assistance unit.

L. Exemptions from registration and work requirements. A recipient shall be exempt from the registration and work requirements of C. and E. if he or she is a person:

1. who is suffering from a permanent or temporary illness, injury, or incapacity which is both medically certified and prevents the person from obtaining or retaining suitable employment for a period of at least 15 days; and, if it is a temporary condition, the person is following a plan for rehabilitation as recommended in the medical certification, or

2. whose presence in the home on a substantially continuous basis is required because of ~~the~~ a medically certified illness, injury, or incapacity, or the advanced age of:

a. another member of the household assistance unit; or

b. another member of the household who is not a member of the assistance unit, if such exemption is approved by the local agency. The physician's statement must indicate that the person requiring care is unable to care for himself or herself; or

3. who has been placed in a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is pursuant to a plan developed or approved by the local agency through its director or designated representative; or

4. who resides in a shelter facility for battered women as described in Minnesota Statutes, section 256D.05, subdivision 3; or

5. who is or may be eligible for displaced homemaker services, programs, or assistance under Minnesota Statutes, section 4.40, but only if enrolled as a full-time student; or

6. who is not described in 1. or 3. and who is diagnosed by a licensed physician or licensed consulting psychologist as mentally retarded or mentally ill, to the extent the person cannot obtain or retain employment; or

7. who has executed an interim assistance authorization agreement pursuant to Minnesota Statutes, section 256D.06, subdivision 5, and who:

a. has an application pending for the social security disability program or the supplemental security income program;

or

b. who has applied to those programs and who is appealing the denial of his or her application; or

c. who has been terminated from those programs and has an appeal pending; or

8. who is of advanced age and unable to obtain or retain suitable employment because his or her advanced age significantly affects his or her ability to seek or engage in substantial work; or

9. who has been referred to, has applied for, or is in a work training, work experience, vocational rehabilitation, or other employment related educational program. A ~~person is~~ recipient shall be exempted pursuant to this clause;

a. for not more than three consecutive months if the recipient is a part-time high school student; or

b. while awaiting acceptance into the program for no more than two months, including the month of application; or

10. who is an adult member of a family an assistance unit with children ~~in a household~~ in which another responsible relative is employed full time or has registered for employment services with the Department of Economic Security or has been accepted in a work training program an employment related educational program; or

11. who has been certified as unemployable by the commissioner of economic security. For such a person:

b. If the recipient is not covered by one of the other categories of exemption, the local agency shall ~~develop and implement a plan which addresses~~ assess the conditions which preclude employment and, if appropriate, develop and implement a plan to address those conditions. ~~All available resources shall be considered in developing this plan~~ The recipient must participate in developing such a plan and must comply with the terms agreed upon in the plan. A recipient who does not comply is subject to the disqualification provisions of G.-K.

N. A ~~person~~ recipient who is referred to the Department of Economic Security pursuant to 12 MCAR § 2.05505 [Temporary] must ~~register with~~ apply to the Department of Economic Security to obtain MEED program services, but need not return verification to the local agency. Future assistance for such a person is defined in 12 MCAR § 2.05505 [Temporary] B.

12 MCAR § 2.05505 [Temporary] Referral to the Minnesota Emergency Employment Development program (MEED).

A. Information. The local agency shall inform all adult applicants for and recipients of general assistance of the MEED program and shall provide each with a description, in plain and easily understood language, of the program.

B. Mandatory referrals.

1. Unless exempt, the local agency shall refer all adult recipients to the commissioner of the Department of Economic Security for allowances and services under the MEED program. The referral shall be made at the time that the local agency issues a grant of general assistance, shall be made on a referral form prescribed by the commissioner, and shall include:

b. the ~~amounts of the recipient's~~ assistance unit's most recent assistance standards, income, and grant;

c. the beginning and ending dates of the ~~recipient's~~ assistance unit's most recent grant of assistance;

f. the address and telephone number of the Department of Economic Security office to which the recipient is being referred ~~to~~;

h. instructions to the recipient to return to the local ~~county~~ agency if he or she is found ineligible for the MEED program by the Department of Economic Security and he or she wishes further assistance.

2. ~~Recipients~~ Assistance units shall, at a minimum, receive a one-month grant from the local agency. The grant shall be issued within 15 calendar days of the date of application or the subsequent date when all eligibility conditions are met. If the local agency is unable to issue the grant within that 15-day period, the grant shall be issued to cover the period from the date of application or from the subsequent date when all eligibility conditions are met plus 15 days. The total period covered shall not be less than 30 days. Notwithstanding the provisions of Minnesota Statutes, section 256D.09, subdivision 1, the grant shall be issued in one payment without regard to the beginning or ending date of the month.

3. The assistance unit shall be eligible for general assistance medical care benefits for no less than the month during which general assistance eligibility begins and the following month. The local agency must inform the assistance unit of its right to apply for general assistance medical care when general assistance is terminated.

4. After completing the referral and issuing the grant, the local agency shall suspend payments to the assistance unit for a 30-day period following the period for which a grant was issued. If the recipient does not return to the local agency within the 30-day suspension period, eligibility will be terminated. Grants shall not be terminated when negotiated rate payments require a supplement to the employment allowance received pursuant to 8 MCAR § 4.0101.

The assistance unit shall be eligible for additional grants of assistance from the local ~~county~~ agency if the recipient returns to the local agency with a written certification from the commissioner of economic security that:

a. the ~~person~~ recipient is ineligible for services from the MEED program; or

b. the ~~person~~ recipient is unlikely to secure a job through the MEED program; or

c. the ~~person~~ recipient is unable to successfully perform a job available through the MEED program; or

c. the ~~person~~ recipient is unemployable; or

e. the MEED program has been discontinued; or

f. the ~~MEED program~~ employment allowances allocation has been depleted.

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ADOPTED RULES

5. In order to comply with the registration and work requirements in 12 MCAR § 2.05504 [Temporary] C. and E., a recipient must register with the Department of Economic Security for the MEED program, comply with its reporting and job search requirements, be available for work, and accept any offer of suitable employment. Determinations of compliances, notices, appeals, and disqualifications are governed by 12 MCAR § 2.05504 [Temporary] D.-K. If any members of an assistance unit is disqualified from the receipt of an employment allowance pursuant to these sections, the other eligible members of the assistance unit may receive general assistance vouchers or vendor payments as provided for in these sections.

C. Exemptions from referral.

1. A recipient shall be exempt from referral to the MEED program if;

a. the commissioner of the Department of Economic Security certifies that the recipient meets one or more conditions of B.4.; or he or she

b. ~~they are~~ is covered by 12 MCAR § 2.05504 [Temporary] L.; or

c. ~~they were eligible~~ was a recipient on September 30, 1983, and whose assistance has not terminated since that date;
or

d. has not been a resident of Minnesota for 30 days or longer; or

e. is eligible for or receiving unemployment compensation or workers' compensation; or

f. is employed.

3. The local agency shall continue to provide assistance to those recipients who were eligible recipients on September 30, 1983, and whose assistance has not terminated since that date, and to recipients who are otherwise exempt from referral to the MEED program, until such time as eligibility conditions are no longer met.

D. Requested services. An exempt applicant or recipient may request services from the MEED program. If requested by the applicant or recipient, the local agency shall refer these persons to the Department of Economic Security using the procedures form mentioned in B.

E. ~~MEED program~~ Employment allowances. A MEED allowance is Employment allowances provided by the Department of Economic Security shall be paid in accordance with 12 MCAR § 2.05503 A., and are unearned income for purposes of determining eligibility for and the amount of general assistance, including emergency general assistance, and the payments for persons in facilities with rates established or negotiated by the state or the local agency. Eligibility for emergency general assistance pursuant to Minnesota Statutes, section 256D.06, subdivision 2:

1. is not precluded by receipt of an employment allowance; or

2. does not require eligibility for a general assistance grant based upon the state standard of assistance.

12 MCAR § 2.05506 [Temporary] Appeal of ~~MEED program~~ employment allowance determinations.

A. Local agency review. If a person contests a finding by the Department of Economic Security that he or she is ineligible for ~~a MEED program~~ an employment allowance or the amount of the MEED program allowance, the Department of Economic Security shall request that the local agency review the contested determination. The local agency shall review the determination and may obtain additional information or verification from the Department of Economic Security or from the applicant in order to determine whether or not the person meets the standards of Minnesota Statutes, sections 256D.01 to 256D.21.

C. Appeal of findings. If a person referred to in A. contests the determination made by the local agency, he or she may appeal the finding pursuant to Minnesota Statutes, section 256.045.

12 MCAR § 2.05507 [Temporary] Information.

Data on individuals collected, maintained, used, or disseminated by the welfare system may be disclosed to the Minnesota Department of Economic Security and its agents including the MEED program for the purpose of monitoring the eligibility of the data subject for unemployment compensation, or for any employment or training program administered by that agency, without the consent of the data subject.

12 MCAR § 2.05508 [Temporary] Contracts with Department of Economic Security.

Local agencies may ~~contract~~ enter into contracts with the Department of Economic Security, including MEED local employment administrators, in order to determine the eligibility of MEED program applicants for an employment allowance and to determine the amount of the allowance. The administrative costs incurred in providing this assistance and income associated

with these contracts must be accounted for in accordance with the state's federally approved cost allocation plan. A local agency shall provide these services at the local Department of Economic Security office or the local MEED program office.

12 MCAR § 2.05509 [Temporary] Local agency reports.

The local agencies shall obtain, collect, and report information necessary for administering, monitoring, and evaluating general assistance, including work requirements and the MEED program.

A. Information on all general assistance applicants and recipients shall be entered in the welfare information system on the schedules established by the department.

12 MCAR § 2.04422 [Temporary] Notice to AFDC applicants and recipients.

A. Minnesota Statutes, section 268.74, subdivision 5 authorizes the commissioner to adopt rules including temporary rules to inform applicants for, and recipients of, aid to families with dependent children of the availability of the MEED program (Minnesota Emergency Employment Development Act, Minnesota Statutes, sections 268.60 to 268.77), and to refer persons required to register for the work incentive program to the MEED program.

B. Rule 12 MCAR § 2.04422 [Temporary] establishes the responsibility of the Department of Public Welfare to notify recipients of aid to families with dependent children of the benefits of the MEED program and the responsibility of the Department of Economic Security to coordinate MEED services with the work incentive program.

C. Requirement. The local agency shall notify each adult applicant for or recipient of aid to families with dependent children of the availability of the MEED program and shall also provide a description of the program. Persons required to register for the work incentive program or with job services shall be referred by the local agency to the Department of Economic Security, which shall:

1. include information about MEED in its orientation;
2. shall use its appraisals for referrals to MEED jobs; and
3. shall include MEED jobs in its job search activities.

TAX COURT

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

**State of Minnesota
County of Dakota**

Leo E. and Sandra Wolter,
Appellants,

v.

The Commissioner of Revenue,
Appellee.

**Tax Court
Regular Division**

In the Matter of an appeal from the Commissioner's
Order dated December 14, 1982 Relating to Individual
Income Tax for the Calendar Year 1977.

Docket No. 3759

Order Dated: 10/4/83

The above matter was tried by the Minnesota Tax Court, Judge Carl A. Jensen presiding, on September 19, 1983, at the Courthouse in Hastings, Minnesota.

Leo E. Wolter, one of the Appellants, appeared on his own behalf.

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

Syllabus

In the absence of proof to the contrary, an audit by the Internal Revenue Service which increases the taxpayer's taxable income will be assumed to be correct.

Findings of Fact

1. Appellants filed an income tax return for 1977 in which they claimed certain deductions for living expenses on both the Federal and Minnesota Tax Returns. The Internal Revenue Service audited the returns and disallowed some of the expenses previously claimed and assessed an additional income tax.
2. Appellants did not appeal from the Internal Revenue Service audit and Appellants paid the additional federal tax.
3. On the basis of the federal audit the Commissioner recalculated the Minnesota Income Tax and issued an order assessing additional Minnesota Income Tax.
4. Appellants appealed from the order assessing additional income tax on the grounds that the deductions that were disallowed by the Internal Revenue Service were proper deductions that could be claimed on his Minnesota Tax Returns. Appellant made no showing as to what these deductions were for and how much they amounted to.
5. The Commissioner has collected the additional tax assessed.
6. The Commissioner's reliance on the federal audit was proper and should be sustained in the absence of a showing by the Appellants that the deductions should be allowed.

Conclusions of Law

1. The Commissioner's order of December 14, 1982 assessing additional income taxes for the calendar year 1977 against the Appellants is affirmed.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

October 4, 1983

By the Court
Carl A. Jensen, Judge
Minnesota Tax Court

Memorandum

The Appellants filed Federal and Minnesota Tax Returns for the year 1977 in which they claimed certain deductions for living expenses while working away from home. Appellants' Federal Tax Return was audited and additional Federal Income Tax was assessed. Appellants did not appeal from the federal determination of the increase in Federal Income Taxes.

On the basis of the federal audit, the Commissioner assessed additional Minnesota Income Taxes against the Appellants.

Appellants claim that the deductions for living expenses that were claimed in the original Minnesota Tax Return were correct and should be allowed. However, Appellant offered no proof as to what these deductions amounted to.

The Minnesota Income Tax Laws provide that the Minnesota Income Tax is to be based on the federal adjusted gross income with certain modifications. Minn. Stat. § 290.01, subd. 20 states in part as follows:

"The term 'gross income' in its application to individuals, estates, and trusts shall mean the adjusted gross income as defined in the Internal Revenue Code of 1954, as amended through the date specified herein for the applicable taxable year, with the modifications specified in this subdivision and in subdivisions 20(a) to 20(f)."

Ordinarily, the federal adjusted gross income would be the correct starting point to calculate the Minnesota Income Tax. When the Internal Revenue Service audits the taxpayer's federal tax return, the Minnesota Commissioner of Revenue can assess additional Minnesota taxes on the basis of the federal audit figures.

The determination by the Commissioner is prima facie correct as provided in Minn. Stat § 290.47 which reads in part as follows:

"Any such return or assessment made by the commissioner on account of the failure of the taxpayer to make a return, or a corrected return, shall be prima facie correct and valid, and the taxpayer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto."

The Appellants could have introduced evidence to contradict the findings of the federal audit even though the Appellants had paid the additional federal taxes and had not appealed from the federal audit. In this case, however, the Appellants offered no such evidence so the order of the Commissioner was required to be affirmed.

C.A.J.

SUPREME COURT

Decisions Filed Friday, October 7, 1983

Compiled by Wayne O. Tschimperle, Clerk

C3-82-630, C4-82-846 In the Matter of the Proceedings to Enforce Payment of the Tax on Mineral Interests Assessed Pursuant to Minn. Stat. § 273.13, subdivision 2a, and Remaining Delinquent on the First Monday in January, 1977, 1978, and 1979, for the County of St. Louis, State of Minnesota. County of St. Louis, Respondent and Minnesota Chippewa Tribe, Respondent, v. The Federal Land Bank of St. Paul. Tax Court.

A flat per-acre or per-interest tax on severed mineral interests, even though it is a nondiscriminatory tax on real estate, is not nondiscriminatory "according to its value" and therefore does not come within Congress' express waiver of the immunity of a Federal Land Bank from state taxes, 12 U.S.C. § 2055.

Reversed. Coyne, J. Dissenting. Yetka, J.

STATE CONTRACTS

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

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

Department of Administration

Notice of Request for Proposal on Provision of Cost-Efficient Travel Services to State Agencies

The Department of Administration herein gives notice of the availability of a request for proposals on provision of cost-efficient travel services.

A group of state agencies is interested in making travel arrangements for state employees with travel agencies providing the broadest array of travel services. The Department is seeking proposals from travel agencies on their capacity and willingness to offer such services.

A copy of the request for proposal can be obtained through the mail by calling the department at (612) 296-6767, or by writing to Nancy Barsness, Department of Administration, Room 200 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

The deadline for receipt of proposals is set for 4:00 p.m., November 7, 1983.

Department of Economic Security

Notice of Request for Proposals for the Establishment of New Displaced Homemakers Programs

Displaced homemakers programs provide intensive career exploration, vocational and personal counseling, testing and assessment, job development and placement assistance to persons who have been homemakers for a number of years, but must suddenly become economically self-sufficient due to death, divorce, separation or disability of the primary wage earner.

The Department of Economic Security will issue grants for six new displaced homemaker programs during the period of January 1, 1983, through June 30, 1985. Each new program will be funded for up to \$100,000. A 20% local match is required. Proposals are sought from Economic Development Regions 1, 2, 3, 4, 5, 6E, 6W, 7E, 7W and 10.

STATE CONTRACTS

Persons interested in further information about this Request for Proposal may attend one of the following Bidder's Conferences:

Tuesday, October 25 1:00-4:00 p.m.	Arrowhead Community College—Itasca Campus Staff Faculty Lounge Room 002, Donovan Hall Grand Rapids, MN
Wednesday, October 26 1:00-4:00 p.m.	North Community Center Lower Library St. Cloud, MN
Thursday, October 27 1:00-4:00 p.m.	WRC—YWCA Balfour Hall Rochester, MN

Proposals must be received by the Governor's Job Training Office no later than 4:30 p.m. on Monday, November 21, 1983. The formal RFP may be requested from, and other inquiries may be made to:

Margaret Revoir
Department of Economic Security
Minnesota Displaced Homemakers Program
Governor's Job Training Office
690 American Center Building
150 East Kellogg Blvd.
St. Paul, MN 55101
(612) 296-6073

Department of Health Services for Children with Handicaps Division

Notice of Availability of Contract for Psychological Services for Children with Handicaps (Contracts with Persons to Provide Services at Field Clinics)

Openings exist for:

Licensed Psychologists with training in educational and behavioral testing. Experience in interdisciplinary team functioning is preferred.

Qualified, interested persons should contact Nancy Okinow, Services for Children with Handicaps, 717 S.E. Delaware Street, P.O. Box 9441, Minneapolis, Minnesota 55440, (612) 623-5168 by November 14, 1983.

Department of Natural Resources Waters Division

Notice of Request for Proposals for Professional Services to Prepare a Guide for Emergency Preparedness for Dam Failures

The Department of Natural Resources is seeking proposals for professional services to prepare a guide for emergency response plans for dam failures. The guide will be used by dam owners to prepare response plans for their dams. The consultant must be experienced in dam safety matters. The preparation of the guide will include coordination with state and federal agencies concerned with dam safety. Responders will be required to submit a preliminary outline of the desired product.

The project is intended to run from December 1, 1983 to September 15, 1984.

Contact Person:

James F. Cooper
Minnesota Department of Natural Resources
Division of Waters, Development Section
Third Floor, Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
Phone (612) 296-0510

Estimated Cost: Not to exceed \$23,000

Submission Deadline: 4:30 p.m., November 18, 1983

Interested persons may submit proposals to the above state contact person. The engineering consultant contractor must have experience in dam safety matters and emergency operations procedures. This experience should be documented in the consultant's proposal.

State Designer Selection Board

Request for Proposal

To Architects and Engineers Registered in Minnesota:

The State Designer Selection Board has been requested to select designer for Two Projects. Design firms who wish to be considered for these projects should submit proposals on or before 4:00 p.m., November 9, 1983, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

1. Six copies of the proposal will be required.
 2. All data must be on 8½" × 11" sheets, soft bound.
 3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.
 4. The proposal should consist of the following information in the order indicated below:
 - a) Number and name of project.
 - b) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc.
 - c) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If the applicant chooses to list projects which are relevant in type, scale, or character to the project at hand, the person's role in the project must be identified.
 - d) A commitment to enter the work promptly and to assign the people listed in "C" above and to supply other necessary staff.
 - e) A list of design projects in process or completed in the three (3) years prior to the date of this request for agencies or institutions of the State of Minnesota, including the University of Minnesota, by the firm(s) listed in "b" together with the approximate fees associated with each project.
 - f) A section of not more than fourteen (14) faces containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described.
- The proposal shall consist of no more than twenty (20) faces. Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.
5. In accordance with the provisions of Minnesota Statutes, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. Your proposal will not be accepted unless it includes one of the following:
 - a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
 - b) A statement certifying that your firm has a current certificate of compliance issued by the Commissioner of Human Rights; or
 - c) A statement certifying that your firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months.

STATE CONTRACTS

6. Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:

a) Enclose a self-address stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded.

b) Enclosed a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the Board will retain one copy of each proposal submitted

Any questions concerning the Board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

7a) PROJECT-14-83

Fire and Life Safety Projects
Minnesota Correctional Facility
St. Cloud, Minnesota
Department of Corrections

Allocation: \$625,000.00 for construction, fees, testing and administration.

GENERAL DESCRIPTION:

Fire and Life Safety Projects:

1) Automatic Sprinkler Systems — main warehouse, padded cell, storage cells, industry building, paint shop and plant operations building.

2) Wet Standpipes — Cell Halls, A, B, C, E and Pomiga and reshape areas.

3) Fire Alarm Systems — living units and other required areas.

4) Fire Exit Stairs — Cell Hall A, B, C, DVR area and Administration balcony.

5) Fire Doors — Cell Hall A, B, C, D and E.

6) Fire Separation Walls — Industry, Administration and steel warehouse buildings.

Sewer Line Replacement:

1) Replace 8" sewerline serving Administration Building.

Fees: The fees for the project will be negotiated on the basis of general guidelines for similar projects.

7b) PROJECT-15-83

Life Safety Projects
Willmar State Hospital
Willmar, Minnesota
Department of Public Welfare

Allocation: \$600,000.00 for construction, fees, testing and administration.

GENERAL DESCRIPTION:

Enclose fire escapes on Cottages 4, 5, 7, 8, 9, 11, 12, 13 and 16. The integration of the new enclosed stair towers with the existing building characteristics will be a challenge to the project designer. It is anticipated that the project will be bid in the Spring of 1984.

Fees: The fees for the project will be negotiated on the basis of general guidelines for similar projects.

Roger D. Clemence, Chairman
State Designer Selection Board

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 Commerce Financial Institutions Division

Bulletin No. 2823: Maximum Lawful Rate of Interest for Mortgage and Contracts for Deed for the Month of October 1983

Notice is hereby given that pursuant to section 47.20, subd. 4a, Minnesota Statutes 1982, as amended by chapter 2888, 1983 Sessions Laws, the maximum lawful rate of interest for conventional home mortgages for the month of October 1983 is fifteen and three-quarters (15.75) percentage points. Further, the maximum lawful rate of interest for contracts for deed for the month of October 1983 is fifteen and three-quarters (15.75) percentage points.

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

Important Notice

The Federal Home Loan Mortgage Corporation has discontinued monthly auctions on its eight month forward commitment purchase program on which Minnesota's conventional mortgage loan and contract for deed maximum rates have been based. Therefore, as provided in Section 47.20, Subd. 4a, Minnesota Statutes, the rate of 15.75 percent will remain the maximum lawful interest rate until Minnesota law is amended to replace the rate setting mechanism.

September 30, 1983

Michael A. Hatch
Commissioner of Commerce

Department of Economic Security

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Implementation of the Work Requirements of Laws 1983, Chapter 312, Article 8, Sections 10, 11, 12 and 13

Notice is hereby given that the Department of Economic Security is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing Work Requirements of Laws 1983, chapter 312, article 8, sections 10, 11, 12 and 13.

The promulgation of these rules is authorized by Minnesota Statutes sections 256D.11, 268.80, 268.81 and 268.021, which requires the agency to promulgate rules to operate this program and other programs administered by the department.

The Department of Economic Security requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

James L. Haynes
Department of Economic Security
720 American Center Building
150 East Kellogg Blvd.
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 297-2809 and in person at the above address.

OFFICIAL NOTICES

All statements of information and comment shall be accepted until November 17, 1983. Any written material received by the State Department of Economic Security shall become part of the record in the event that the rules are promulgated.

William Brown
Deputy Commissioner
Department of Economic Security

Environmental Quality Board Power Plant Siting and Transmission Line Routing Program

Notice of Annual Hearing

Saturday, November 19, 1983
9:00 a.m.
Conference Room A
Capitol Square Building
St. Paul, MN 55101

The Minnesota Environmental Quality Board will hold the annual public hearing on the Power Plant Siting and Transmission Line Routing Program, as required by the Power Plant Siting Act, Minnesota Statutes § 116.58, on Saturday, November 19, 1983, in St. Paul, Minnesota. The public hearing is designed to afford interested persons an opportunity to be heard regarding any aspects of the Board's activities, duties or policies pursuant to the Act.

All persons will be afforded the opportunity to be heard through the presentation of oral or written statements. Direct all inquiries to:

George Durfee, Manager
Power Plant Siting Program
Minnesota Environmental Quality Board
100 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
(612) 296-2878

Ethical Practices Board

Advisory Opinion #84

Approved by the Ethical Practices Board on October 6, 1983

Issued to:

John H. Daniels, Jr., Esq.
Willeke & Daniels
Attorneys and Counselors at Law
925 Soo Line Building
Fifth and Marquette
Minneapolis, MN 55402

RE: Economic Interest Disclosure

Summary

85. For the purposes of economic interest disclosure, "immediate family member" includes certain individuals related to a public official by blood, adoption, and marriage.

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

Department of Health Health Systems Division

Notice of Intent to Solicit Outside Opinion Regarding a Proposed Temporary Rule Governing the Relocation of Residents of Nursing Homes and Certified Boarding Care Homes

Notice is hereby given that the Health Systems Division of the Department of Health is seeking information or opinions from sources outside the agency in preparing to promulgate a temporary rule governing the relocation of residents from nursing homes or certified boarding care homes, in accordance with a mandate given by the interagency board pursuant to Laws of 1983, chapter 199, section 5, subdivision 4. The promulgation of this temporary rule is authorized by Laws of 1983, chapter 199, section 16. The temporary rule concerns the relocation of residents from a nursing home or certified boarding care home which is curtailing operations or services or is closing.

The Health Systems Division of the Department of Health requests information and comments concerning this temporary rule. Interested or affected persons or groups may submit written statements of information and comments to:

H. Michael Tripple
Survey and Compliance Section
Minnesota Department of Health
717 Delaware Street Southeast — P.O. Box 9441
Minneapolis, Minnesota 55440
(612) 623-5448

Statements of information and comment will be accepted until the close of the business day on October 28, 1983. Any written material received by that date by the Department of Health shall become part of the record in the event that the temporary rule is promulgated.

Department of Labor and Industry Workers' Compensation Division

Notice of Intent to Solicit Information and Opinions from Sources Outside of the Agency on Proposed Rules Governing Workers' Compensation Practice and Procedure

Notice is hereby given that the Department of Labor and Industry is seeking information and comments from persons or organizations outside of the agency in preparing to promulgate new rules and amend or repeal existing rules governing Workers' Compensation practice and procedure. Procedural rules governing the formal litigation process will be promulgated jointly with the Office of Administrative Hearings. Other procedural rules will be promulgated as separate rules of the Department of Labor & Industry. Promulgation of these rules is authorized by Minnesota Statutes 176.83.

The Department of Labor & Industry requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit information or comment orally or in writing to Commissioner Steve Keefe, Department of Labor & Industry, 444 Lafayette Road, St. Paul, MN 55101.

Minnesota State Retirement System

Regular Meeting, Board of Directors

A meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, October 21, 1983 at 8:30 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

STATE OF MINNESOTA

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

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FOR LEGISLATIVE NEWS

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

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

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

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

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

Legislative Reference Library
Room 111 Capitol
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