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STATE REGISTER

STATE OF MINNESOTA

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Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 8			
5	Monday July 18	Monday July 25	Monday Aug 1
6	Monday July 25	Monday Aug 1	Monday Aug 8
7	Monday Aug 1	Monday Aug 8	Monday Aug 15
8	Monday Aug 8	Monday Aug 15	Monday Aug 22

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

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

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

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

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NOTICE

How to Follow State Agency Rulemaking Action in the State Register

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

The PROPOSED RULES section contains:

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

The ADOPTED RULES section contains:

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

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the State Register 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:

Table with 2 columns: Issue/Section and Cumulative/Inclusive range. Includes rows for Issues 1-13, 14-25, 26, 27-38, 39, 40-51, and 52.

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

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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.

Pollution Control Agency Water Quality Division

Proposed Amendment of Rule Governing Classifications of Intra-state Waters of Minnesota

Notice of Intent to Adopt Rules without a Public Hearing

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

If adopted, the proposed rule would classify an unnamed creek in New Yorker Hollow, Winnebago Township, Houston County, near Eitzen, Minnesota, as a Class 7, Limited Resource Value Water. The City of Eitzen is exploring wastewater treatment alternatives which may include a discharge to this unnamed creek.

Class 7 waters are protected so as to allow secondary body contact use, to preserve the ground water for use as a potable water supply, and to protect aesthetic qualities of the water. Class 7 waters are not protected for fisheries and recreation uses. The criteria for classifying water segments as Class 7 waters are contained in 6 MCAR §§ 4.8014 B.7 and 4.8015 B.7, the water quality standards for Class 7 waters are contained in 6 MCAR §§ 4.8014 D.7 and 4.8015 D.7, and the effluent limitations for discharges to Class 7 waters are contained in 6 MCAR §§ 4.8014 C.6 and C.16, and 4.8015 C.6 and C.16. A copy of the proposed rule is attached to this notice.

The agency has prepared a statement of need and reasonableness for the stream segment proposed to be classified as a Class 7 water. Copies of this Statement may be obtained by contacting: Mr. Gerald Blaha, Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113, (612) 296-7239.

The agency is authorized to adopt this rule amendment under Minnesota Statutes sections 115.03 and 115.44 (1982).

Persons interested in this rule have until August 25, 1983 to submit comments on the proposed rule. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the classification of the stream segment within the comment period, a public hearing will not be held. In the event a public hearing is required the agency will proceed

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

according to the provisions of Minnesota Statutes sections 14.11-14.20 (1982), as amended by Minnesota Laws, 1983, chapter 210.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request no later than August 25, 1983, to Mr. Gerald Blaha at the address given above. Also, persons submitting written comments should identify the suggested modifications to the proposed classification, and the reasons and data relied on to support the suggested modifications.

In the case where the final rule can be adopted 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 its legality, and its form to the extent the form relates to 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. Gerald Blaha at the address noted above.

Please be advised that Minnesota Statutes chapter 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 Minnesota Statutes § 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 provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

July 11, 1983

Sandra S. Gardebring, Executive Director
Minnesota Pollution Control Agency

Rule as Proposed

6 MCAR § 4.8024 Classifications of intrastate waters of Minnesota.

The following rule establishing classifications pertains to all intrastate surface waters of the state.

A.-E. [Unchanged.]

SUPPLEMENT I CLASS 7 LIMITED RESOURCE VALUE WATERS

(Nos. 1-35) [Unchanged.]

Root River Watershed (No. 36)

Streams

*Carters Creek	T. 103, R. 12, S. 4, 9, 15, 16, 22
Wykoff	
North Fork Whitewater River	See Whitewater River, North Fork
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*Whitewater River, North Fork	T. 108, R. 12, S. 25, 26, 27
Elgin	

(Nos. 37-39) [Unchanged.]

Minnesota Public Utilities Commission

Proposed Temporary Rules Governing Cogeneration and Small Power Production

Notice of Intent to Adopt Temporary Rules

Notice is hereby given that the Minnesota Public Utilities Commission has proposed the following temporary rules for the purpose of amending its existing rules governing cogeneration and small power production to implement changes made to Minn. Stat. § 216B.164 during the 1983 legislative session.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rules for 20 days immediately following publication of this material in the *State Register*. All submissions must be in writing and addressed to

Randall D. Young
Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Blvd.
St. Paul, Minnesota 55101

The temporary rules may be revised on the basis of the data and views received. Any written material received will become part of the record and will be submitted to the Attorney General.

The commission has reviewed the proposed rules and believes that their adoption will not require the expenditure of public money by local public bodies in excess of \$100,000 in either of the two years following adoption.

July 6, 1983

Randall D. Young
Executive Secretary

Temporary Rules as Proposed

4 MCAR § 3.0450 Scope and purpose.

The purpose of 4 MCAR §§ ~~3.0450-3.0462~~ 3.0463 is to implement certain provisions of ~~Minn. Stat. §~~ Minnesota Statutes, section 216B.164; the Public Utility Regulatory Policies Act of 1978, ~~46~~ United States Code, title 16, section 824a-3 (Supplement III, 1979); and the Federal Energy Regulatory Commission regulations, ~~48~~ Code of Federal Regulations, title 18, sections 292.101-292.602 (1981). Nothing in 4 MCAR §§ ~~3.0450-3.0462~~ 3.0463 excuses any utility from carrying out its responsibilities under these provisions of state and federal law. Rules 4 MCAR §§ ~~3.0450-3.0462~~ 3.0463 shall at all times be applied in accordance with their intent to give the maximum possible encouragement to cogeneration and small power production consistent with protection of the ratepayers and the public.

4 MCAR § 3.0451 Definitions.

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

B. [Unchanged.]

C. Average retail utility energy rate. "Average retail utility energy rate" means, for any class of utility customer, the quotient of the total annual class revenue from sales of electricity minus the annual revenue resulting from fixed charges, divided by the annual class kilowatt-hour sales. Data from the most recent 12-month period available shall be used in the computation.

C.-N. [Reletter as D.-O.]

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

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

P.-R. [Reletter as Q.-S.]

~~S. T.~~ S. T. Qualifying facility. "Qualifying facility" means a cogeneration or small power production facility which satisfies the conditions established in ~~48~~ Code of Federal Regulations, title 18, section 292.101 (b) (1) (1981), as applied when interpreted in accordance with the amendments to ~~48~~ Code of Federal Regulations, title 18, sections 292.201-292.207 adopted through 46 Federal Register 33025-33027 (1981). The initial operation date or initial installation date of a cogeneration or small power production facility shall not prevent the facility from being considered a qualifying facility for the purposes of 4 MCAR §§ ~~3.0450-3.0462~~ 3.0463 if it otherwise would satisfy all stated conditions.

T.-W. [Reletter as U.-X.]

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

1. for the purposes of 4 MCAR §§ 3.0453 and 3.0461, any public utility, including municipally owned electric utilities or cooperative electric associations, which sells electricity at retail in Minnesota; or

2. for the purposes of 4 MCAR §§ 3.0450-3.0452, 3.0454-3.0460, and 3.0462-3.0463, any public utility, including municipally owned electric utilities and cooperative electric associations, which sells electricity in Minnesota, except those municipally owned electric utilities which have adopted and have in effect rules consistent with 4 MCAR §§ 3.0450-3.0463.

4 MCAR § 3.0452 Filing requirements.

A. Filing dates. Within 60 days after the effective date of 4 MCAR §§ ~~3.0450-3.0462~~ 3.0463, on January 1, ~~1984~~ 1985, and every 12 months thereafter, each utility shall file with the commission, for its review and approval, a cogeneration and small power production tariff. The tariff for generating utilities shall contain Schedules A through ~~F~~ G, except that generating utilities with less than 500 million kilowatt-hour sales in the calendar year preceding the filing may substitute their retail rate schedules for Schedules A and B. The tariff for nongenerating utilities shall contain Schedules C, D, ~~E~~ F, and ~~G~~ H, and may, at the option of the utility, contain Schedules A and B, using data from the utility's wholesale supplier.

B.-C. [Unchanged.]

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

1.-4. [Unchanged.]

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

a. [Unchanged.]

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

6. [Unchanged.]

E. Schedule C. Schedule C shall contain the calculation of the average retail utility energy rates.

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

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

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

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

~~I. J.~~ I. J. Schedule ~~G~~ H; special rule for nongenerating utilities. Schedule ~~G~~ H shall list the rates at which a nongenerating utility purchases energy and capacity. If the nongenerating utility has more than one wholesale supplier, Schedule ~~G~~ H shall list the

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

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

4 MCAR § 3.0453 Reporting requirements.

A.-E. [Unchanged.]

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

4 MCAR § 3.0454 Conditions of service.

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

B.-C. [Unchanged.]

D. Responsibility for apparatus. The qualifying facility, without cost to the utility, shall furnish, install, operate, and maintain in good order and repair any apparatus the qualifying facility needs in order to operate in accordance with Schedule ~~D~~ E.

E. [Unchanged.]

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

G.-K. [Unchanged.]

4 MCAR § 3.0456 Standard rates for purchases.

A. [Unchanged.]

B. Net energy billing rate.

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

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

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

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

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

C. Simultaneous purchase and sale billing rate.

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

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

3. The utility shall purchase all energy and capacity which is made available to it by the qualifying facility. At the option

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PROPOSED RULES

of the qualifying facility, its entire generation shall be deemed to be made available to the utility. Compensation to the qualifying facility shall be the sum of a. and b.

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

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

D. Time-of-day purchase rates.

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

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

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

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

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

4 MCAR § 3.0460 Disputes.

In case of dispute between a utility and a qualifying facility or an impasse in the negotiations between them, either party may request the commission to determine the issue. When the commission makes the determination, the burden of proof shall be on the utility. In the order resolving the dispute, the commission will apportion the prevailing party's reasonable costs, disbursements, and attorney's fees to be paid by the party against whom the issue or issues were adversely decided, except that a qualifying facility will be required to pay the costs, disbursements, and attorney's fees of the utility only if the commission finds that the claims of the qualifying facility have been made in bad faith or are a sham or frivolous.

4 MCAR § 3.0461 Notification to customers.

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

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

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

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

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

B. [Unchanged.]

4 MCAR § 3.0462 Interconnection guidelines.

A. Denial of interconnection application. Except as hereinafter provided, a utility shall interconnect with a qualifying facility that offers to make energy or capacity available to the utility. The utility may refuse to interconnect a qualifying facility with its power system until the qualifying facility has properly applied under 4 MCAR § 3.0454 K. and has received approval from the utility. The utility shall withhold approval only for failure to comply with applicable utility rules not prohibited by 4 MCAR §§ ~~3.0480-3.0562~~ 3.0450-3.0463, or governmental rules or laws. The utility shall be permitted to include in its contract reasonable technical connection and operating specifications for the qualifying facility.

B.-F. [Unchanged.]

G. Permitting entry. If the particular configuration of the qualifying facility precludes disconnection or testing from the utility side of the interconnection, the qualifying facility shall make equipment available and permit electric and communication utility personnel to enter the property at reasonable times to test isolation and protective equipment, to evaluate the quality of power delivered to the utility's system, and to test to determine whether the qualifying facility's generating system is the source of any electric service or communication systems problems. The utility shall remain responsible for its personnel.

H.-K. [Unchanged.]

Temporary Rules as Proposed (all new material)

4 MCAR § 3.0463 [Temporary] Contracts.

A. Existing contracts. Any interconnection contracts executed between a utility and a qualifying facility with installed capacity of less than 40 kilowatts before the effective date of 4 MCAR §§ 3.0450-3.0463 may, at the option of either party, be canceled and replaced with the uniform statewide contract by either party giving the other written notice thereof. The notice shall be effective upon the shortest period permitted under the existing contract for termination, but not less than ten nor more than 30 days.

B. Uniform statewide contract. The form of the uniform statewide contract shall be as follows:

UNIFORM STATEWIDE CONTRACT FOR
COGENERATION AND SMALL POWER PRODUCTION FACILITIES

THIS CONTRACT is entered into _____, 19 _____,
by _____ (hereafter called
"Utility") and _____ (hereafter called "QF").

RECITALS

The QF has installed electric generating facilities, consisting of _____

_____. (Description of facilities),
rated at less than 40 kilowatts of electricity, on property located at _____

The QF is prepared to generate electricity for use and for sale to the Utility.

The QF's electric generating facilities meet the requirements of the Minnesota Public Utilities Commission (hereafter called "Commission") rules on Cogeneration and Small Power Production and any standards the Utility has established under those rules.

The Utility is obligated under federal and Minnesota law to interconnect with the QF and to purchase electricity from the QF.

A contract between the QF and the Utility is required by the Commission's rules.

AGREEMENTS

The QF and the Utility agree:

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PROPOSED RULES

1. The Utility will sell electricity to the QF under the rate schedule in force for the class of customer to which the QF belongs.
2. The Utility will buy electricity from the QF under the current rate schedule filed with the Commission. A copy of the presently filed rate schedule is attached to this contract.
3. The rates for sales and purchases of electricity may change over the time this contract is in force, due to actions of the Utility or of the Commission, and the QF and the Utility agree that sales and purchases will be made under the rates in effect each month during the time this contract is in force.
4. The Utility will make these computations at the end of each billing period:
 - a. the Utility will deduct the purchases made from the QF from the sales made to the QF during that billing period and determine the difference;
 - b. the Utility will multiply the difference by the rate then in force;
 - c. if sales made to the QF exceed the purchases from the QF, the Utility will bill the QF the amount calculated in b. plus any fixed charges;
 - d. if purchases from the QF exceed the sales made to the QF, the Utility will pay the QF the amount calculated in b. minus any fixed charges by _____.
(Fill in either "by bill credit" or "by check within 15 days.")
5. The QF will operate his or her electric generating facilities within the rules, regulations, and policies of the Utility. A copy of those rules, regulations, and policies is attached to this contract.
6. The Utility's rules, regulations, and policies will follow the Commission's rules on Cogeneration and Small Power Production.
7. The Utility approves the QF's electric generating facilities as of the date of this contract.
8. The QF will operate his or her electric generating facilities so that they conform to all national, state, and local electric and safety codes, and will be responsible for all costs of conformance.
9. The QF will pay the Utility for all costs of interconnecting with the Utility's system. The QF and the Utility agree that the costs of interconnection are \$ _____, and that the QF will pay the Utility in this way: _____
10. The QF will give the Utility reasonable access to his or her property and electric generating facilities if the configuration of those facilities does not permit disconnection or testing from the Utility's side of the interconnection. If the Utility enters the QF's property, the Utility will remain responsible for its personnel.
11. The Utility may stop providing electricity to the QF during a system emergency. The Utility will not discriminate among customers when it stops providing electricity or when it resumes providing electricity.
12. The Utility may stop purchasing electricity from the QF when necessary for the Utility to construct, install, maintain, repair, replace, remove, investigate, or inspect any equipment or facilities within its electric system. The Utility will notify the QF before it stops purchasing electricity in this way: _____
13. The Utility may stop purchasing electricity from the QF when extraordinary operating conditions make the cost of purchasing electricity from the QF more expensive than the costs of generating the electricity internally. The Utility will only exercise this right under the following circumstances:

_____. The Utility will notify the QF before it stops purchasing electricity in this way: _____
14. The QF will keep in force liability insurance against personal or property damage due to the installation, interconnection, and operation of his or her electric generating facilities. The amount of insurance coverage will be \$ _____ (amount not greater than \$300,000).
15. This contract becomes effective as soon as it is signed by the QF and the Utility. This contract will remain in force until either the QF or the Utility gives written notice to the other that the contract is canceled. This contract will be canceled 30 days after notice is given.
16. This contract is temporary, and will be replaced by a permanent contract after the Commission puts permanent rules on cogeneration and small power production into place. The permanent contract may differ in its terms and conditions.

17. This contract contains all the agreements made between the QF and the Utility. The QF and the Utility are not responsible for any agreements other than those stated in this contract.

THE QF AND THE UTILITY HAVE READ THIS CONTRACT AND AGREE TO BE BOUND BY ITS TERMS. AS EVIDENCE OF THEIR AGREEMENT, THEY HAVE EACH SIGNED THIS CONTRACT BELOW ON THE DATE WRITTEN AT THE BEGINNING OF THIS CONTRACT.

QF

By: _____

Minnesota Housing Finance Agency

Proposed Temporary Rules Governing Accessory Apartment Loans

Request for Public Comment

Notice is hereby given that the Minnesota Housing Finance Agency has proposed the following temporary rules for the purpose of establishing procedures for application for participation in and setting income limits for Accessory Apartment Loans, pursuant to subdivision 10 of chapter 462A.03 and subdivision 11 of chapter 462A.06 of Minnesota Statutes.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rules for 20 days immediately following publication of this material in the *State Register* by writing to Mary Tingerthal, Director of Home Improvement Loan Programs, Minnesota Housing Finance Agency, Suite 200, 333 Sibley Street, St. Paul, Minnesota 55101. The temporary rules may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rule. As required by the Administrative Procedures Act, this temporary rule will be effective for not more than 180 days and may be continued in effect for up to an additional 180 days.

July 22, 1983

James J. Solem
Executive Director

Temporary Rules as Proposed (all new material)

Chapter Six C Accessory Apartment Loans

12 MCAR § 3.058 [Temporary] Definitions.

A. Scope. For the purposes of this chapter, the following terms have the meanings given them.

B. Accessory apartment loan. "Accessory apartment loan" means a loan the proceeds of which are used to construct an additional dwelling unit within a structure, or to improve not more than two rental dwelling units located in a structure that was originally built as a single-family residence and that, at the time of the loan application, contains a total of not more than three dwelling units.

C. Borrower. "Borrower" means one or more persons who apply for and receive an accessory apartment loan and who are the makers of a note in evidence of the loan.

D. Dwelling unit. "Dwelling unit" means a housing unit that includes self-contained cooking, sleeping, and bathroom facilities, and is located in the structure. A dwelling unit may be occupied by either a tenant or the owner of the structure.

E. Rental dwelling unit. "Rental dwelling unit" means a dwelling unit that is occupied by a person or household other than the owner of the structure and for which rent in cash or in kind is received by the owner.

F. Structure. "Structure" means a building that was originally built as a single-family residence and that satisfies the eligibility requirements of 12 MCAR § 3.059 E. [Temporary].

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PROPOSED RULES

12 MCAR § 3.059 [Temporary] Eligibility requirements.

A. Property interest. A borrower shall individually or in the aggregate possess at least a one-third interest in a fee ownership of, a contract for deed for, or a life estate in the property on which the structure to be improved is located.

B. Occupancy. If the proceeds of an accessory apartment loan are used to construct an additional dwelling unit, at least one of the borrowers shall occupy the structure as his or her principal residence at the time of loan application or shall occupy one dwelling unit within the structure within 60 days of the date of the note in evidence of the loan.

If the proceeds from an accessory apartment loan are used to improve one or more dwelling units, at least one of the borrowers shall occupy one of the dwelling units as his or her principal residence at the time of loan application.

C. Credit worthiness. A borrower shall be a reasonable credit risk and shall be able to pay the loan obligation as determined under 12 MCAR § 3.013.

D. Borrower eligibility. A borrower shall meet either of the following standards to be eligible for an accessory apartment loan:

1. a borrower shall be a person or household of low or moderate income as defined in 12 MCAR § 3.002 O.5.; or

2. a borrower shall agree to rent all of the dwelling units that he or she does not occupy at a rate not to exceed the current United States Department of Housing and Urban Development (HUD) Fair Market Rents for Existing Dwellings in the section 8 program under the United States Housing Act of 1937, United States Code, title 42, sections 1437 et seq. as amended through December 31, 1982, as determined and adjusted from time to time by HUD, for a period of at least one year from the date the dwelling unit is first occupied by a renter.

E. Eligibility of structure. The structure to be improved or modified with the proceeds of an accessory apartment loan must comply with applicable zoning ordinances or other applicable land use guides upon completion of the construction or improvements.

If a borrower qualifies for a loan by satisfying the requirement in D.1., the structure to be modified or improved must have been completed and occupied as a residence for at least 90 days at the time of the loan application.

If a borrower qualifies for a loan solely by satisfying the requirements in D.2., the structure to be modified or improved must be at least 15 years old at the time of loan application.

12 MCAR § 3.060 [Temporary] Eligible improvements.

A. Permanent general improvements. Proceeds from an accessory apartment loan must be used to finance only permanent general improvements. Permanent general improvements include additions, alterations, renovations, or repairs upon or in connection with existing structures. Permanent general improvements do not include materials, fixtures, or landscaping of a type or quality exceeding that customarily used in the locality for properties of the same general type as the structure to be modified or improved.

B. Loan proceed restrictions. The proceeds from an accessory apartment loan must be used to finance only improvements or modifications to, or in connection with, an existing structure. The proceeds from an accessory apartment loan may be used as follows:

1. To add not more than one dwelling unit to a structure that is a single-family residence at the time of the loan application; or

2. To improve a structure that, at the time of the loan application, contains one or two rental dwelling units in addition to a dwelling unit occupied by the owner of the structure. Use of the proceeds from an accessory apartment loan for the type of structure described in B.2. is restricted to improvements that will bring all rental dwelling units into compliance with local zoning ordinances and other applicable health, fire prevention, building, and housing codes and standards.

The proceeds from an accessory apartment loan must not be used to pay for assessments for public improvements except if the improvements will bring an individual sewage disposal system (including septic system) located on the property on which the structure is located into compliance with local, state, or federal environmental and sanitary standards.

C. Energy conservation. If an existing or newly constructed rental dwelling unit does not comply with the state energy conservation standards for rental housing, the proceeds from an accessory apartment loan must be used to bring the rental dwelling unit into compliance with these standards.

D. Time of completion. Improvements or construction financed in whole or in part by an accessory apartment loan must be completed within nine months of the date of the first disbursement of the loan except for delays due to causes beyond the borrower's reasonable control, such as fire, strike, and shortage of materials.

12 MCAR § 3.061 [Temporary] Other requirements.

A. Unavailability of financing. At the time of application for an accessory apartment loan, conventional financing for this purpose must not be available from private lenders upon equivalent terms and conditions.

B. Other codes and standards. Following the completion of construction or improvement, all rental dwelling units must comply with all applicable health, fire prevention, building, and housing codes and standards. However, an accessory apartment loan shall not be denied solely because the construction or improvements to be financed by it will not bring the entire structure into full compliance with these codes and standards.

C. Warranty of workmanship and materials. Contracts for construction or improvement of a dwelling unit that are financed in whole or in part by the proceeds from an accessory apartment loan must contain a warranty of workmanship and materials that is approved by the agency.

UTILITY

By: _____

(Title)

Minnesota Housing Finance Agency

Proposed Temporary Rules Governing Solar Energy and Energy Conservation Bank Programs

Request for Public Comment

Notice is hereby given that the Minnesota Housing Finance Agency has proposed the following temporary rules for the purpose of establishing procedures for application for participation in and setting income limits for Solar Energy and Energy Conservation Bank Program Loans, pursuant to subdivision 10 of chapter 462A.03 and subdivision 11 of chapter 462A.06 of Minnesota Statutes.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rules for 20 days immediately following publication of this material in the *State Register* by writing to Mary Tingerthal, Director of Home Improvement Loan Programs, Minnesota Housing Finance Agency, Suite 200, 333 Sibley Street, St. Paul, Minnesota 55101. The temporary rules may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rule. As required by the Administrative Procedures Act, this temporary rule will be effective for not more than 180 days and may be continued in effect for up to an additional 180 days.

July 22, 1983

James J. Solem
Executive Director

Temporary Rules as Proposed (all new material)

**Chapter Fourteen
Solar Energy and Energy Conservation Bank Programs**

12 MCAR § 3.160 [Temporary] Scope.

Chapter 14 governs the residential energy conservation programs authorized by assistance awards from the federal Solar Energy and Energy Conservation Bank under subtitle A of title V of the Energy Security Act, United States Code, title 12, sections 3601-3620, and the disposition of the funds received under assistance awards and of funds received from other sources in conjunction with assistance awards.

12 MCAR § 3.161 [Temporary] Incorporation of federal regulations.

Except as further defined and limited by chapter 14, the residential energy conservation programs are governed by the Solar Energy and Energy Conservation Bank Interim Rule, Code of Federal Regulations, title 24, part 1800 as published in the Federal

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PROPOSED RULES

Register, volume 48, number 105, May 31, 1983, as amended, and any waivers to the interim rule obtained by the agency and published in the *State Register*.

12 MCAR § 3.162 [Temporary] Definitions.

- A. Scope. The following definitions apply to chapter 14.
- B. Agency. "Agency" means the Minnesota Housing Finance Agency or its designee.
- C. Bank. "Bank" means the Solar Energy and Energy Conservation Bank as established under subtitle A of title V of the Energy Security Act, United States Code, title 12, sections 3601-3620.
- D. Bank assistance. "Bank assistance" means financial assistance from the bank provided to eligible recipients according to Code of Federal Regulations, title 24, part 1800.
- E. Deferred loan. "Deferred loan" means a loan without interest or periodic payments made to an eligible deferred loan recipient from a source other than the bank. The loan's purpose must be to finance the cost of eligible energy conservation measures in a one-to-four family residential building.
- F. Deferred loan recipient. "Deferred loan recipient" means one or more individuals who apply for and receive both a deferred loan and bank assistance.
- G. Participating entity. "Participating entity" means an entity, including, but not limited to, a private corporation, a public utility, a foundation, a nonprofit organization, and a local government, that contributes funds to be used in conjunction with funds received from the bank.
- H. Passive solar subsidy. "Passive solar subsidy" means bank assistance provided to an eligible passive solar subsidy recipient to finance a portion of the purchase of a newly constructed single-family residential building that contains a passive solar space heat system.
- I. Passive solar subsidy recipient. "Passive solar subsidy recipient" means one or more individuals who apply for and receive a passive solar subsidy.
- J. Rental subsidy. "Rental subsidy" means bank assistance provided to an eligible rental subsidy recipient to finance a portion of the cost of eligible energy conservation measures in a rental property.
- K. Rental subsidy recipient. "Rental subsidy recipient" means one or more persons, as defined in Code of Federal Regulations, title 24, section 1800.3, who apply for and receive a rental subsidy.
- L. Rental property. "Rental property" means an existing building that is used primarily for residential purposes, is owned by the rental subsidy recipient, and in which all dwelling units are rented or available for rental to others; provided, however, that the owner may occupy not more than one of the dwelling units in the building as his or her residence.

12 MCAR § 3.163 [Temporary] Energy conservation deferred loan program.

- A. Additional recipient eligibility criteria. In addition to meeting the applicable eligibility criteria in Code of Federal Regulations, title 24, section 1800.63, a deferred loan recipient:
 - 1. shall own and occupy the "one-to-four family residential building," as defined in Code of Federal Regulations, title 24, section 1800.3, to be improved with the proceeds of a deferred loan and bank assistance; and
 - 2. shall not be eligible to receive sufficient funds to complete the eligible energy conservation improvements under 12 MCAR § 3.163 E. from any of the following programs: federal Weatherization Program under United States Code, title 42, section 6863; agency Home Improvement Loan Program under chapter six; agency Home Improvement Grant and Rehabilitation Loan programs under chapter seven; and energy conservation assistance programs available from local entities.
- B. Restrictions on eligibility. If the agency determines that sufficient funds are not available to adequately make available deferred loans and bank assistance to persons who meet the qualifications in A., the agency may limit the availability of deferred loans and bank assistance to "families," as defined in Code of Federal Regulations, title 24, section 1800.3, whose annual income are not in excess of 80 percent of the "median area income," as defined in Code of Federal Regulations, title 24, section 1800.3, and may limit the maximum assistance as provided in C. Notice of this limitation must be published in the *State Register*.
- C. Maximum assistance. The combined maximum amount of financial assistance provided to a deferred loan recipient from a deferred loan and bank assistance may not exceed \$5,000.
- D. Type of financial assistance. Bank assistance provided to a deferred loan recipient must be in the form of a reduction of principal, as defined in Code of Federal Regulations, title 24, section 1800.15.
- E. Items eligible for financing. In addition to the eligible energy conservation measures in Code of Federal Regulations,

title 24, section 1800.65, the proceeds of a deferred loan may be used to finance the cost of a loan processing fee established or approved by the agency.

F. Repayment. A deferred loan recipient shall enter into an agreement with the agency, or may be required to enter into an agreement with a participating entity, for repayment of the deferred loan and bank assistance. If the agreement is with the agency, the agreement must provide that in the event the property improved with the proceeds of the deferred loan and bank assistance is sold, transferred, or otherwise conveyed, or ceases to be the deferred loan recipient's principal place of residence within ten years from the date upon which the deferred loan application was approved by the agency, the deferred loan recipient shall repay the loans. The agency or participating entity may place a lien or other security device on the improved property as security for repayment of the loans.

G. Notice of fund availability. From time to time, the agency shall publish a notice of fund availability in the *State Register* prior to the date upon which it first accepts applications for deferred loans and bank assistance. The notice must include: the names and addresses of agents authorized by the agency to process and submit applications; the date upon which applications will first be accepted; and the specific items that constitute a valid application.

H. Submission of applications. The agency shall accept applications for deferred loans and for bank assistance only if submitted through one of its authorized agents identified in its notice of fund availability.

The agency shall review applications for both deferred loans and bank assistance to determine their compliance with Code of Federal Regulations, title 24, part 1800. The agency may accept or reject applications for bank assistance and for deferred loans funded by the agency based on the requirements in this rule. Applications for deferred loans funded by a participating entity other than the agency must be accepted or rejected based on criteria established by the participating entity.

I. Selection of applications. The agency shall fund qualifying applications for bank assistance on a first-come, first-served basis, based upon the date on which a valid application is received by the agency, and until the available funds are exhausted.

If, on the day that the funds are exhausted, sufficient funds are not available to fund all applications received on that day, the applications to be funded must be selected by lot from among the applications received on that day.

12 MCAR § 3.164 [Temporary] Rental properties energy conservation program.

A. Eligible rental subsidy recipient. A rental subsidy recipient shall meet the applicable eligibility criteria in Code of Federal Regulations, title 24, section 1800.63.

B. Type of financial assistance. Bank assistance provided to rental subsidy recipients must be in the form of a reduction of principal, as defined in Code of Federal Regulations, title 24, section 1800.15.

C. Energy conservation standards. To the extent necessary, the proceeds of a rental subsidy must be used to finance, in whole or in part, improvements that will bring the rental property into compliance with the state energy conservation standards for rental housing.

D. Notice of fund availability. From time to time, the agency shall publish a notice of fund availability in the *State Register* prior to the date upon which it will first accept applications for rental subsidies. The notice must include: (1) the names and addresses of lending institutions authorized by the agency to process and submit requests for rental subsidy funding; (2) the date upon which the authorized lending institutions will first accept applications; and (3) the specific items which constitute a valid application.

E. Submission of applications. Applications for rental subsidies may not be submitted directly to the agency but must be submitted to one of the authorized lending institutions identified in its notice of fund availability.

F. Selection of applications. Qualifying applications for rental subsidies will be funded on a first-come, first-served basis, based on the date on which the agency receives a request for rental subsidy funding from a lending institution, and until the available funds are exhausted.

If, on the day that the funds are exhausted, sufficient funds are not available to fund all applications received on that day, the applications to be funded must be selected by lot from among the applications received on that day.

12 MCAR § 3.165 [Temporary] Passive solar new construction program.

A. Eligibility. In addition to meeting the applicable eligibility criteria in Code of Federal Regulations, title 24, section

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PROPOSED RULES

1800.43. a passive solar subsidy recipient shall intend to own and occupy the residential building, the construction of which is partially financed by a passive solar subsidy.

B. Eligible properties. The passive solar subsidy may be used only in conjunction with permanent financing for a newly constructed single-family residential property that includes a passive solar space heating system.

C. Type of financial assistance. Bank assistance provided to passive solar subsidy recipients must be in the form of a reduction of principal, as defined in Code of Federal Regulations, title 24, section 1800.15.

D. Access to property. A passive solar subsidy recipient shall enter into an agreement with the agency to allow the agency to install monitoring equipment in a residential building whose construction is partially financed by a passive solar subsidy. The recipient shall also agree to allow the agency access to the building to monitor its energy performance for five years from the date on which permanent financing on the property is closed.

E. Notice of fund availability. From time to time, the agency shall publish a notice of fund availability in the *State Register* prior to the date upon which it will first accept applications for passive solar subsidies. The notice must include: the last date upon which the agency will accept applications; the specific materials that constitute a valid application; the specific design standards upon which applications will be evaluated; the amount of the nonrefundable review fee to be charged by the agency; and if applicable, the maximum annual income of eligible applicants as set forth in F.

F. Selection of applications. Applications that are received prior to the deadline announced by the agency, that fulfill the basic standards in the notice of fund availability, and that meet the other eligibility requirements in this rule are eligible applications.

If the agency receives more eligible applications than can be financed with the available funds, the agency shall use the following method to select those applicants who will receive a passive solar subsidy:

1. The agency shall first award funds to all eligible applicants with certified annual adjusted incomes of \$38,000 or less.
2. If there are more applications from eligible applicants with annual adjusted incomes of \$38,000 or less than can be financed with the funds available, the applications to be funded will be selected by lot.
3. After funds are awarded to all eligible applicants with adjusted incomes of \$38,000 or less, if funds remain available, the agency may publish a second notice of fund availability and accept applications from applicants with adjusted incomes of greater than \$38,000. The applications to be funded will be selected by lot, if necessary, from among the eligible applications received in response to the second notice of fund availability.

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.

Department of Revenue Income Tax Division

Adoption of New and Amended Rules and the Repeal of a Rule of the Department of Revenue Relating to the Taxation of a Unitary Business and Formula Apportionment

The rules proposed and published at *State Register*, Volume 7, Number 35, pages 1226-1234, February 28, 1983, (7 S.R. 1226) are adopted with the following modifications:

Rules as Adopted

2019 Apportionment of net income of business conducted partly within Minnesota.

(b) Apportionment of net income under Minnesota Statutes, section 290.19, subdivision 1, clause (1). If the business consists of the manufacture of personal property and sale of said property within and without Minnesota the formula shall be as follows:

(2) Under Minnesota Statutes, section 290.19, subdivision 1, clause (1) (d). ~~In the alternative~~ The following alternative formula ~~may be~~ is employed if a lesser percentage to Minnesota results by its use:

$$70\% \text{ of } \frac{\text{Minn. Sales}}{\text{Total Sales}} + 15\% \text{ of } \frac{\text{Minn. Payroll}}{\text{Total Payroll}} + 15\% \text{ of } \frac{\text{Minn. Tang. Prop.}}{\text{Total Tang. Prop.}} = \% \text{ to Minn.}$$

An illustration of the weighing of the factors in the alternative formula as provided in Minnesota Statutes, section 290.19, subdivision 1, clause (1) (d) appears thus:

	Within Minn.	Weighted	Percentage
Sales.....	40%	70%	28.
Payroll.....	50%	15%	7.5
Tangible Property	70%	15%	10.5
Weighted averages percentage to Minnesota			<u>46.0%</u>

Since under the fact situation used in this illustration, the weighted average formula determines a lesser Minnesota percentage ratio, the weighted ratio ~~may be~~ is used.

(d) Definition of terms.

(2) The property element of the apportionment formula considered above shall include land, buildings, machinery, and equipment, inventories, and other tangible personal property actually used by the taxpayer during the taxable year in carrying on the business activities of the taxpayer. Tangible property which is to be separately allocated under Minnesota Statutes, sections 290.17 and 290.18 may not be considered as property includible in the apportionment factor. Cash on hand or in banks, shares of stock, notes, bonds, accounts receivable, or other evidences of indebtedness, special privileges, franchises, and good will, are specifically excluded from the property factor. The value of tangible property which is owned by the taxpayer and which is to be used in the apportionment fraction shall be the original cost adjusted for any subsequent capital additions or improvements and partial disposition by reason of sale, exchange, or abandonment. Property which is rented by the taxpayer is valued at eight times the net annual rental ~~rate~~. Net annual rental ~~rate~~ is the annual rental ~~rate~~ paid by the taxpayer less any annual rental ~~rate~~ received by the taxpayer from subrentals. If the subrents taken into account in determining the net annual rental produce a negative or clearly inaccurate value for any item of property, another method which will properly reflect the value of rented property may be required by the Department of Revenue or requested by the taxpayer. In no case however shall such value be less than an amount which bears the same ratio to the annual rental paid by the taxpayer for such property as the fair market value of that portion of the property used by the taxpayer bears to the total fair market value of the rented property. The valuations of property both within and without Minnesota shall be the averages during the year and must be on a commensurate basis. Rents paid during the year must not be averaged. The changes made in this paragraph concerning the property factor are effective for taxable years beginning after December 31, 1982. A person filing a combined report shall use this method of calculating the property factor for all members of the group.

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

Housing Finance Agency

Adopted Temporary Rules Governing Income Limits for Limited Unit Developments and Eligibility for the Homeownership Assistance Fund

The rules proposed and published at *State Register*, Volume 7, Number 48, pages 1702-1705, May 30, 1983 (7 S.R. 1702) are adopted with the following modifications:

12 MCAR § 3.133 [Temporary] Homeownership assistance fund.

A. Monthly assistance. The agency may provide eligible recipients with interest-free monthly assistance loans in the form of monthly payments of a portion of the principal and interest installment due on the limited-unit development mortgage on qualifying property. Such payments shall not exceed \$100 per month and shall decrease by ~~\$20~~ \$10 per month or ~~\$240~~ \$120 per year each year. The maximum amount of monthly assistance to which a recipient is originally entitled shall be determined by the agency from time to time on the basis of the percentage of income which may reasonably be spent on mortgage payments, the interest rate charged for limited-unit development mortgage loans, and general housing and construction costs in the state of Minnesota, provided however, that the initial maximum monthly assistance which the agency shall determine to be available shall not exceed the following amounts for persons and families within the following annual adjusted income ranges as set forth in Exhibit 12 MCAR § 3.133 B.-1 and Exhibit 12 MCAR § 3.133 C.-2 for various potential interest rates to be charged by the agency on its limited-unit development mortgage loans.

SUPREME COURT

Decisions Filed Friday, July 15, 1983

Compiled by Wayne Tschimperle, Clerk

C9-82-1037 James Flowers vs. Consolidated Container Corp., Employer, Home Insurance Co., Travelers Insurance Co., Employers Insurance of Wausau, Fireman's Fund American Insurance Co., Relator, Blue Cross and Blue Shield of Minnesota, Hennepin County Welfare Department, Intervenors, and State Treasurer, Custodian of the Special Compensation Fund. Workers' Compensation Court of Appeals.

In cases of occupational disease contracted during a single employment, the insurer on the risk when the disease resulted in disability is liable for workers' compensation benefits, and apportionment among previous carriers is not permitted.

Affirmed. Amdahl, C. J.

C0-82-1038 State Farm Fire and Casualty Co., Appellant, vs. John Phillip McPhee and Harold LeRoy Schroedl, Trustee in the Matter of the Wrongful Death of Linda McPhee. Anoka County.

An insured homeowner's liability for the wrongful death of his wife, who was also an insured under the subject homeowner's policy, is excluded from coverage through the operation of the policy's household exclusion clause.

Reversed. Amdahl, C. J.

C6-82-1108 Keith Moberg and Joy Robb, Appellants, vs. Independent School District No. 281, School Board of Independent School District No. 281, individually and in their representative capacity, and Ann Rest, individually and as a representative of Citizens Concerned for District No. 281. Hennepin County.

Respondents complied with the notice and hearing requirements of the Schoolhouse Closing Statute, Minn. Stat. § 123.36, subd. 11 (1982), by stating the reasons for closing then known to them, and by holding a special public hearing for each school they considered closing.

The Open Meeting Law, Minn. Stat. § 471.705, subd. 1 (1982) applies to meetings of at least a quorum of a governing body or its subdivisions at which members receive information regarding, or discuss or decide as a group, any matter relating to the official business of that governing body. Conclusions of the trial court adjudicating respondents to be in violation of this statute are reversed.

Invalidation of school board action in closing a schoolhouse must be sought under statutes governing authority and procedures

of a school board by writ of certiorari. Applying the standard of review appropriate to such an action, respondents' action must be upheld.

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

C7-82-1201 Guillaume & Associates, Inc. vs. Don-John Co., Summit State Bank of Bloomington, a partnership, Appellant. Hennepin County.

Rule 6.02 of the Minnesota Rules of Civil Procedure is not inconsistent with Minn. Stat. § 514.11 (1982). In the circumstances of this case, the trial court erred in not granting appellant's motion for an extension of time in which to file an answer.

Reversed. Amdahl, C. J.

C6-83-678 State of Minnesota vs. Tommy Wayne Abeyta, Appellant. Kandiyohi County.

Trial court did not err in denying defense motion for a dispositional departure.

Affirmed. Amdahl, C. J.

CX-82-754 William D. Folk, *et al.*, vs. Home Mutual Insurance Co., Appellant. Washington County.

Plaintiffs are not entitled to recover on a theory neither plead nor voluntarily litigated.

Reversed and remanded. Amdahl, C. J.

C2-83-323 State of Minnesota vs. Peter Dillener, Appellant. Nicollet County.

Trial court erred in departing durationally from presumptive sentence established by the Minnesota Sentencing Guidelines.

Remanded for resentencing. Amdahl, C. J.

C2-82-540 State of Minnesota vs. Jay Garfield Lattin, Appellant. Hennepin County.

Trial court properly admitted eyewitness-identification testimony, evidence identifying defendant was sufficient, and defendant was properly convicted of criminal sexual conduct in the first degree rather than criminal sexual conduct in the third degree.

Affirmed. Todd, J.

C2-82-604 State of Minnesota vs. Rirchard C. Griffin, Appellant. Hennepin County.

Police lawfully crossed threshold of defendant's room without a warrant after validly arresting him in the common hallway of the rooming house and, pursuant to the "plain view" exception to the warrant requirement, properly seized evidence of the offense for which they had arrested him.

On-the-scene identification of defendant by victim shortly after the offense did not offend due process where the confrontation did not create a "very substantial likelihood of irreparable misidentification."

State has the burden at a sentencing hearing of establishing the facts necessary to justify consideration of out-of-state convictions in determining a defendant's criminal history score, and state met that burden in this case.

Affirmed. Todd, J.

C8-83-438 State of Minnesota, Plaintiff, vs. Rodney Russell Leonard, Defendant. Anoka County.

Prior juvenile court adjudication of a person as a major traffic offender based on a violation of Minn. Stat. § 169.121 (1982) is not a "conviction" within the meaning of section 169.121, subd. 3, which makes it a gross misdemeanor for a person who has been "convicted" of violating section 169.121 to violate that section a second time within 5 years.

Affirmed. Todd, J.

C2-82-1025 Crown CoCo, Inc. vs. The Commissioner of Revenue, Relator. Tax Court.

A metal canopy over self-service gas station pumps serves a shelter function not unlike that of buildings and other taxable structures and is therefore subject to taxation pursuant to Minn. Stat. § 272.01, subd. 1 (1982).

Reversed. Scott, J.

C9-82-1359 City of Thief River Falls vs. United Fire & Casualty Co., Appellant. Pennington County.

A suit for a writ of mandamus to compel initiation of condemnation proceedings is not one "seeking damages" within the meaning of the duty to defend clause of an insurance contract.

Reversed. Scott, J.

C2-83-113 Hussein Ansari, Relator, vs. Harold Chevrolet, Inc., and Home Insurance Company. Workers' Compensation Court of Appeals.

Where employee claimed that the right to compensation continued, the compensation insurer could not discontinue

SUPREME COURT

compensation payments until it provided the Workers' Compensation Division with notice of its intention to do so pursuant to Minn. Stat. § 176.241 (1980).

Affirmed in part and reversed in part. Scott, J.

C6-82-895 State of Minnesota vs. Rogelio G. Mesa, Appellant. Hennepin County.

Defendant received a fair trial on aggravated robbery charge, and evidence of his guilt was sufficient to sustain verdict.

Affirmed. Wahl, J.

C4-82-1074 The Blue Water Corporation, Inc., et al., vs. Terrance S. O'Toole, Appellant. Ramsey County.

Defendant's motion for judgment notwithstanding the verdict should have been granted where plaintiffs' evidence did not reasonably tend to sustain a jury finding that defendant's negligence was the proximate cause of plaintiffs' failure to obtain a bank charter.

Reversed and remanded. Wahl, J.

C0-82-1394 Ronald Engelstad and Richard Engelstad d/b/a/ Engelstad Brothers, vs. Cargill, Inc., Appellant. Marshall County.

The trial court properly concluded that collateral estoppel precluded appellant from denying that it was a principal for a company that defaulted on grain purchase contracts.

The rule that bars a creditor's claim against a principal once the creditor has obtained a judgment against the agent is rejected.

A creditor may proceed to judgment against both a principal and its agent but is limited to satisfaction of one of the two judgments.

Affirmed. Wahl, J.

C8-83-276 State of Minnesota, Appellant, vs. Roland Abraham, et al., Scott Thomas. Sibley County.

Double jeopardy clause bars prosecutor from appealing from judgment of acquittal by trial court acting as trier of fact on issue of entrapment.

Appeal dismissed. Wahl, J.

C1-82-1162 Urbaniak Implement Co. and the Estate of Stanley T. Urbaniak, vs. Donovan Monsrud, Appellant. Kittson County.

On the record presented, there is a genuine issue of material fact on the issue of fraud so that summary judgment may not be granted.

Reversed. Simonett, J.

C2-82-1395 Gay Myers, as trustee for the heirs of Lawrence Joseph Myers, deceased, et al., Appellants, vs. State Farm Mutual Automobile Insurance Company. Hennepin County.

A coverage dispute involving the policy definition of "underinsured motor vehicle" does not come within the scope of the policy's arbitration clause and, there being no "factual preconditions" to coverage in dispute, the coverage question will be decided in this appeal.

A policy definition of "underinsured motor vehicle" which excludes a vehicle owned by or furnished or available for the regular use of the named insured is valid. Here, where the fatally injured person was a passenger in an automobile which struck a tree, that automobile is not an "underinsured motor vehicle" under the owner's policy for the purpose of an underinsured benefit claim by the passenger's heirs.

Affirmed and remanded for trial of remaining issues. Simonett, J. Took no part, Coyne, J.

C1-82-1419 In Re Gary Kohn, d.b.a. Racing Unlimited, Inc., Sports Accessories International, and Minnesota Auto Specialties, Appellants, vs. State of Minnesota, by Hubert H. Humphrey, III, its Attorney General. Hennepin County.

Affidavits filed by the Attorney General in support of his motion to compel compliance with a Civil Investigative Demand, though controverted, constitute a sufficient showing that the Attorney General has reasonable grounds to believe that appellant corporations had violated or were about to violate the consumer protection laws.

The state's request for business documents under its Civil Investigative Demand does not violate the fourth amendment prohibition against an unreasonable search and seizure.

A corporation required to produce its business records cannot invoke any privilege against self-incrimination. Neither may an individual acting in a representative capacity for the corporation refuse, on the grounds of a privilege against self-incrimination, to produce the corporate documents.

An individual acting as a corporate agent has a fifth amendment privilege against self-incrimination which he may invoke when the state seeks to compel the agent to give answers to interrogatories in a Civil Investigative Demand.

The state's investigation of appellant's business operations pursuant to Minn. Stat. § 8.31 (1982) is not discriminatory enforcement and does not violate the equal protection clause of the fourteenth amendment.

Affirmed in part, reversed in part, and remanded for further proceedings. Simonett, J.

C8-82-1062 State of Minnesota, Appellant, vs. Donald Marvil Yahnke. Scott County.

Affidavit in support of application for search warrant established probable cause to justify the search of defendant's residence; trial court erred in ruling that the search was illegal and in suppressing evidence as the fruit of that search.

Reversed and remanded for trial. Kelley, J.

C4-82-765 St. Paul Fire Fighters, Local 21, vs. City of St. Paul, Appellant. Ramsey County.

The decision to establish a training program in which all fire captains must participate in an inherent managerial policy decision which a public employer is not required to negotiate.

A public employer is required to negotiate those aspects of implementation of a managerial policy decision which affect working conditions and are neither essential to the basic decision nor inimical to public safety and welfare.

Affirmed as modified. Coyne, J.

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.

Commerce Department

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Medical Fee Review for Workers' Compensation

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing medical fee review for workers' compensation. Promulgation of these rules is authorized by Minnesota Statutes 1982, section 176.136.

The Department of Commerce 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 to: John Klein, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-3238.

All statements of information and comment shall be accepted until August 20, 1983. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Reynaud L. Harp
Deputy Commissioner of Commerce

Commerce Department

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Joint Self-Insurance Employee Health Plans

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing joint self-insurance employee health plans. Promulgation of these rules is authorized by Minnesota Statutes, section 62H.06 (Laws 1983, Ch. 241, § 6).

OFFICIAL NOTICES

The Department of Commerce 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 to: John Klein, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-3238.

All statements of information and comment shall be accepted until September 30, 1983. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Reynaud L. Harp
Deputy Commissioner of Commerce

Metropolitan Council

Notice of Preliminary Review Schedule Metropolitan Development Framework: Interim Economic Policies

Four years ago, the Metropolitan Council began a process to build a better understanding of the regional economy and to examine how the Council's decisions impact the business community. An Economic Technical Advisory Committee (ETAC) made up of business, labor and government representatives assisted in the process and suggested further research. The Council has followed up on that research, and the goals and policies recommended in the Interim Economic Policies discussion paper are based on the concerns raised by ETAC and the staff research.

The goals and policies discussed in the paper will be adopted on an interim basis in early 1984 and will be incorporated into a revised Metropolitan Development Framework Guide chapter in late 1984.

The basic premise behind the recommended goals and policies is that economic development and business concerns need to be more specifically considered in the Council's decisions. The paper contains policies related to investments in the regional systems, regional coordination of economic development, financing of economic development and increasing access to employment opportunities.

The following is a tentative schedule for reviewing and adopting the interim economic policies.

MDF INTERIM ECONOMIC POLICIES ADOPTION SCHEDULE

July	1 (Friday)	Staff draft completed
July	26 (Tuesday)	Mailed to Economic Development Committee (EDC)
August	1 (Monday)	EDC review public meeting draft
August	8 (Monday)	Formal staff positions taken / EDC approves public meeting draft
August	10 (Wednesday)	Mail public meeting draft
August	30 (Tuesday)	Public meeting
August	31 (Wednesday)	Public meeting
September	9 (Friday)	Public meeting record closed
September	12 (Monday)	EDC reviews public hearing draft (based on public meeting revisions)
September	19 (Monday)	EDC reviews public hearing draft
September	26 (Monday)	EDC approves public hearing draft
September	29 (Thursday)	Council sets public hearing date
November	9 (Wednesday)	Public hearing held
November	28 (Monday)	Public hearing record closed
December	12 (Monday)	Hearing record and final document available
January	9 (Monday)	EDC reviews and recommends adoption
January	19 (Thursday)	Council adopts

Natural Resources Department Minerals Division

Notice of Intent to Hold State Copper-Nickel Lease Sale State Lands to be Offered for Copper-Nickel Exploration

The Minnesota Department of Natural Resources hereby announces that plans are being developed to hold the state's eighth sale of copper-nickel exploration and mining leases during November or December of 1983. The lease sale plans are being announced at this time in order to give mining companies, public interest groups and all other interested parties additional time to review the areas under consideration.

The purpose of Minnesota's copper-nickel rules is to promote and regulate the prospecting for, mining and removal of copper, nickel and associated minerals on state-owned and state-administered lands. These rules, and the leases issued under the rules, authorize exploration and development of these minerals and impose certain requirements on the lessee. The requirements include: the payment of minimum rentals which increase with the passage of time, the payment of royalty for all ore mined and removed, the submission of data and other reports, and addressment of environmental considerations. In addition, the state lessee must comply with all applicable regulatory laws.

The areas under consideration for lease sale cover portions of the Duluth Complex in St. Louis, Lake and Cook counties and portions of the Greenstone formation in St. Louis, Itasca, Koochiching, Beltrami, Lake of the Woods, Roseau and Marshall counties. Some of the land being considered has been offered in previous copper-nickel lease sales, but in light of interest shown and geologic data and exploration techniques developed during the past few years, it is felt that within these lands there is significant potential for the discovery of mineral resources. Certain new lands of interest are also being considered for the lease sale.

The exact time of the lease sale will be announced by legal notice at least thirty days prior to the sale. Mining unit books, listing the state lands to be offered at the lease sale, will be available for inspection or purchase at that time.

A map showing the general areas under consideration may be obtained from the Division of Minerals, Box 45, Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155, telephone (612) 296-4807.

Pollution Control Agency and Department of Health

Request for Information on Polychlorinated Biphenyl (PCB) Cleanup Levels and Procedures

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) and Minnesota Department of Health (MDH) are seeking information or opinions from sources outside of the departments regarding cleanup levels and procedures to be recommended in situations involving PCB surface contamination in buildings and PCB contamination outside of buildings from spills, leaks or other releases.

Interested or affected persons or groups may submit statements of information or comment addressed to the following:

Lovell E. Richie
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113

Comments must be submitted by August 26, 1983.

July 15, 1983

Sr. Mary Madonna Ashton
Commissioner
Department of Health

Sandra Gardebring
Executive Director
Pollution Control Agency

OFFICIAL NOTICES

State Planning Agency Criminal Justice Program

Notice of Meeting

The Juvenile Justice Advisory Committee will meet on Friday, July 29, 1983 at 9:00 a.m. in Conference Room 116A, Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota.

Transportation Department

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules of the Department of Transportation Governing State-Aid Operations under Minn. Stat. Chs. 161 and 162, (1982)

Third Notice of Intent to Solicit Outside Opinion

Notice is hereby given that the Minnesota Department of Transportation has been seeking information or opinions from sources outside of the department in preparing to promulgate new rules governing State-Aid Operations under Minnesota Statutes, Chapters 161 and 162. Previous public notice of this fact was given on March 14, 1983 at *State Register*, Vol. 7, No. 37, p. 27, and on May 23, 1983 at *State Register*, Vol. 7, No. 47, p. 1692. Please be advised that as required by Minn. Stat. ch. 162 the State-Aid Rules Advisory Committees have been formed, have met to develop an agenda of matters of interest to Minnesota counties and cities, and will meet again shortly (on August 5, 1983 at 9:30 A.M. in Room G-18 Transportation Building, St. Paul, Minnesota) to discuss matters of common interest preparatory to offering their findings to the Commissioner of Transportation.

Please also be advised that Laws of Minnesota 1983, Chapter 17 creates a town road account within the county state-aid highway fund. Distribution of town road funds may be made under a formula prescribed by the commissioner if a county has not adopted its own distribution formula. The commissioner also solicits information and opinion on this subject.

This notice should be considered an amendment to the notices cited above.

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

Gordon M. Fay
State Aid Engineer
Division of Technical Services
Minnesota Department of Transportation
420 Transportation Building
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-9877 and in person at the above address.

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

July 18, 1983.

Richard P. Braun
Commissioner of Transportation

Transportation Department Technical Services Division

Appointment and Scheduled Meeting of a State Aid Standards Variance Committee

Notice is hereby given that the Commissioner of Transportation has appointed a State Aid Standards Variance Committee

who will conduct a meeting on Thursday, July 28, 1983, at 9:30 a.m. in Room 410A, State Transportation Building, John Ireland Boulevard, St. Paul, Minnesota.

This notice is given pursuant to Minnesota Statutes § 471.705.

The purpose of the open meeting is to investigate and determine recommendation(s) for variances from minimum State Aid roadway standards as governed by 14 MCAR § 1.5032 M.4.b., **Rules for State Aid Operations** under Minnesota Statute, Chapter 161 and 162 (1978), as amended.

The following two additional cities have been added to the agenda since the schedule which appeared in the *State Register* on July 11, 1983.

1. Petition of the County of Carlton for a variance from Standards for Design Speed on CSAH 13 from CSAH 8 to FAI 35.
2. Petition of the County of Benton for a variance from Standards for Street Width for diagonal parking on CSAH 4 from Norman Avenue to Main Street, and on CSAH 20 from Main Street to T.H. 23 in the City of Foley.

The cities and counties listed above are requested to follow the following time schedule when appearing before the Variance Committee:

1:30 p.m. — County of Carlton

1:50 p.m. — County of Benton

July 15, 1983

Richard P. Braun
Commissioner of Transportation

Transportation Department

Petition of the City of Fairmont for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of the City of Fairmont made a written request to the Commissioner of Transportation for a variance from minimum design standards for street width for a resurfacing project on Prairie Avenue from Blue Earth Avenue to Ninth Street.

The request is for a variance from 14 MCAR § 1.5032, H., 1., d., **Rules for State Aid Operations** under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a minimum street width of 44 feet with parking on both sides instead of the required 46 feet street width with parking on both sides.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, MN, 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

July 15, 1983

Richard P. Braun
Commissioner of Transportation

Transportation Department

Petition of Lac Qui Parle County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Lac Qui Parle County made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for a special resurfacing project on CSAH 20 from Township Road No. 167 to the East County Line.

The request is for a variance from 14 MCAR § 1.5032, H., 1., d., **Rules for State Aid Operations** under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a design speed of 44 instead of the required design speed of 45 miles per hour.

OFFICIAL NOTICES

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, MN, 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

July 11, 1983

Richard P. Braun
Commissioner of Transportation

Transportation Department

Petition of Otter Tail County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Otter Tail County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for a special resurfacing project on CSAH 4 from Trunk Highway 228 to the North Otter Tail County Line.

The request is for a variance from 14 MCAR § 1.5032, H., 1., d., **Rules for State Aid Operations** under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a design speed of 40 miles per hour instead of a required design speed of 45 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, MN, 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

July 14, 1983

Richard P. Braun
Commissioner of Transportation

Transportation Department

Petition of Benton County for a Variance from State Aid Standards for Diagonal Parking

Notice is hereby given that the County Board of Benton County has made a written request to the Commissioner of Transportation for a variance from minimum design standards for diagonal parking on resurfacing projects on CSAH 4 from Norman Avenue to Main Street, and on CSAH 20 from Main Street to Trunk Highway 23 in Foley.

The request is for a variance from 14 MCAR § 1.5032, H., 1., d., **Rules for State Aid Operations** under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a minimum width of 63.7 feet on CSAH 4, and 63.3 feet on CSAH 20 instead of the required width of 66 feet with 45° angle parking.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, MN, 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

July 14, 1983

Richard P. Braun
Commissioner of Transportation

Transportation Department

Petition of Carlton County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Carlton County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for a resurfacing project on CSAH 13 from CSAH 8 to Interstate 35.

The request is for a variance from 14 MCAR § 1.5032, H., 1., d., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit design speeds of 35 and 40 miles per hour instead of a required design speed of 45 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, MN, 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

July 13, 1983

Richard P. Braun
Commissioner of Transportation

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.

Administration Department

Notice of Request for Proposals for Management Development Program

The Department of Administration is requesting proposals for a Management Development Program including a seminar component to be presented September 27-30. The program will be designed and available for all managers within the Department of Administration.

Proposals should indicate consultant expertise in organizational development appropriate to conducting a three day program and providing a system of follow-up in three areas, defined below, for the duration of the fiscal year.

The Management Development Program will be designed to include the following elements.

1. Management Style
2. Group Process Skills
3. Effective Team Action

Request for proposal applications are available upon request. Submitted proposals must be received by the Department of Administration before 4:30 p.m. Friday, August 12, 1983.

Inquiries and proposals should be directed to:

Annie Belle Calhoun
Director of Personnel Services
Department of Administration
50 Sherburne Ave.
St. Paul, Minnesota 55155
(612) 296-7036

Corrections Department Community Services Division

Notice of Availability of Funds for Battered Women Programs

Notice is hereby given that the Department of Corrections intends to engage the services of grantees to provide direct advocacy services for battered women in the Range communities from January 1, 1984 to June 30, 1984.

This project will be financed out of funds made available by the Minnesota Legislature. A total of \$25,000 will be available. Any nonprofit corporation serving the Range communities is eligible to apply. Proposals are due no later than September 2, 1983.

Direct inquiries to:

Maggie Arzdorf-Schubbe, Director
Program for Battered Women
Minnesota Department of Corrections
430 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101
(612) 296-6463

State Designer Selection Board

Request for Proposal to Architects and Engineers Registered in Minnesota

The State Designer Selection Board has been requested to select designers to study program needs for the Judicial Branch. Design firms who wish to be considered for these projects should submit proposals on or before 4:00 P.M., August 17, 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.

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.

7. Project 6-83
Judicial Building

Study of Program needs for the Judicial Branch within the Capitol Area Complex

Approximately \$75,000.00 is available to develop the architectural program for a Judicial Building to house at least the Court of Appeals, State Court Administration, State Law Library and several Boards operating under the aegis of the Supreme Court. Other judicial or quasi-judicial functions may be included as well.

The Supreme Court of Minnesota will prepare a comprehensive program statement which will be given to the firm contracted to develop the space program.

In the selection of the consultant the Board will place particular emphasis on the following issues:

I. The firm or association of firms:

- 1) Must have the capacity to undertake this project without delays or inefficiencies. The state intends this work completed by February 1, 1984.
- 2) Must have experience in the space programming and design of major appellate judicial facilities and a broad knowledge of court systems and their support requirements.
- 3) The consultant will be required to participate in presentations of the architectural program.
- 4) The consultant will be required to evaluate the program requirements and develop cost estimates to be used in requesting funds of the Legislature in March of 1984.

Upon completion of the architectural program this consultant may be required by supplemental contract to evaluate, a minimum of three locations for this facility within the Capitol Area. That evaluation to be completed by March 1, 1984.

Roger D. Clemence, Chairman
State Designer Selection Board

City of Duluth

Notice of Availability of Contract for Preliminary Engineering-Erosion Control & Stabilization along Scenic Northshore Drive (Congdon Boulevard)

The City of Duluth requires the services of a qualified consultant with erosion control/stabilization experience as it relates to roadways.

Proposed work includes:

- 1) Assist the city in the selection of an appropriate technology to stop the erosion and provide for a stabilized shoreline adjacent to Scenic Northshore Drive.
- 2) Perform and document environmental studies and related analyses as needed.

STATE CONTRACTS

- 3) Prepare project memorandum (project development report and location design study report) as well as environmental impact statement/assessment and secure all necessary permits.
- 4) Prepare plans, specifications and estimates and other documentation as needed.
- 5) Perform all inspections and documentation required of the project based on federal highway requirements.
- 6) Prepare documentation necessary for FHWA approval.

Firms desiring consideration shall express their interest and submit their current Federal Forms 254 and 255 by 4:00 p.m., August 1st, 1983. Technical proposals will be requested from qualifying firms.

This is not a request for proposal. Send your response to:

Paul Davidson
City Engineer
211 City Hall
Duluth, MN 55802
(218) 723-3278

Department of Education Special Services Division

Notice of Request for Proposals for Evaluation Services for Cost-Effective/Innovative Projects and Minnesota Improved Learning Law Program

The Council on Quality Education, Minnesota Department of Education is seeking individuals or organizations to evaluate cost-effective/innovative projects and Minnesota Improved Learning Law grants. The evaluation expectations are outlined in detail in the Request for Proposals (RFP) along with a list of projects and their fiscal agent (location). The formal RFP may be requested and inquiries should be directed to:

Minnesota Council on Quality Education
Division of Special Services
Department of Education
722 Capitol Square
550 Cedar Street
St. Paul, MN 55101

It is anticipated that the activities involving 36-40 project evaluations under six separate contracts will involve \$50,000. Deadline for submission of RFP's is 4:30 p.m. Friday, August 5, 1983.

Housing Finance Agency

Notice of Request for Proposals for Contract Services

The Minnesota Housing Finance Agency wishes to engage the services of a contractor to conduct a survey of three multi-family residences which have been built exclusively for disabled people and which are located in the Minneapolis-St. Paul area. Inquiries should be directed to:

Robert Odman, Director
Property Management
Minnesota Housing Finance Agency
333 Sibley Street
St. Paul, MN 55101
(612) 296-9821

Proposals are due by August 15, 1983.

Pollution Control Agency Solid and Hazardous Waste Division

Notice of Request for Qualifications/Request for Proposals (RFQ/RFP) for Contractual Services to Conduct a Remedial Investigation of Geology and Ground Water Hydrology and Contaminant Conditions

The Minnesota Pollution Control Agency (MPCA) is seeking proposals from qualified consulting firms to conduct a Remedial Investigation in the Arden Hills, New Brighton, and St. Anthony area. The investigation will:

1. Determine the source(s) of the volatile organic chemical contaminants in approximately 18 square miles of the area's ground water.
2. Approximately apportion the responsibility for that contamination between identified sources.
3. Gather geological, hydrological, and contaminant data for use in remedial action assessment and litigation/enforcement actions.
4. Identify and preliminarily assess on site(s) and off site(s) remedial actions.

The Remedial Investigation will be two phased, lasting approximately 15 months. The investigation will include at least extensive monitoring well construction, water sampling and analysis, geological/hydrological evaluation, modeling, and report preparation.

This RFQ/RFP is being made pursuant to a Cooperative Agreement between the U.S. Environmental Protection Agency (EPA) and the MPCA under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("Superfund"). The MPCA is acting as lead agency. The total contract cost of the Remedial Investigation will not exceed \$1,218,500.

Prospective responders who have questions or who would like a copy of the scope of work for this study may call or write:

Stephen J. Lee
Minnesota Pollution Control Agency
Solid and Hazardous Waste Division
1935 West County Road B2
Roseville, Minnesota 55113-2785
(612) 296-7782

Deadline for submission of proposals is 4:30 p.m., August 17, 1983.

Public Welfare Department Division of Social Services

Notice of Availability of Contract for Migrant Day Care Services

The Department of Public Welfare/Division of Social Services is seeking an agency to organize and implement a short-term bilingual/bicultural day care service program for the children of Minnesota's Migrant farm workers.

It is expected that a total of 20,500 days of developmental day care services be provided to approximately 900 Spanish speaking children (6 weeks to 6 years of age) of migrant farm workers in Minnesota. Direct services shall be provided between the months of May and September of 1984 in cooperation and coordination with the Department of Education-Migrant Special Education Programs, Minnesota Migrant Head Start Programs, USDA Summer Feeding Program and Migrant Health Services, Inc.

Project Funding Level: \$486,551.

Final Submission Date: August 15, 1983

Inquiries and formal expressions of interest should be directed to:

Carol Janson
Division of Social Services
Department of Public Welfare
Centennial Office Building
St. Paul, MN 55155
(612) 296-4817

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.

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