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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			
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
9	Monday Aug 15	Monday Aug 22	Monday Aug 29

*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:

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

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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.

Department of Administration Board of Electricity

Proposed Rule of the State Board of Electricity Governing Experience Requirements For License Applicants and License Definitions

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the State Board of Electricity ("board") proposes to adopt the above-entitled rules without a public hearing. The board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 14.21 to 14.28.

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

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 14.13 to 14.20. If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

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

Mr. John Quinn
Executive Secretary
State Board of Electricity
Room N-191, Griggs Midway Building
1821 University Avenue
Saint Paul, Minnesota 55104
Telephone (612) 297-2111

Authority for the adopting of these rules is contained in Minn. Stat. §§ 326.241 subd. 6, 326.242 and 326.247. Additionally, a statement of need and reasonableness that describes the need for and identifies the data and information relied upon to support the proposed rules, has been prepared and is available from Mr. Quinn upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and

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

Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Mr. Quinn.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting Mr. Quinn.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1982) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250.00 not including his own travel expenses and membership dues in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials: or

(b) Who spends more than \$250.00 not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

John Quinn, Executive Secretary
State Board of Electricity

Rules as Proposed (all new material)

4 MCAR § 11.033 Minimum experience requirements for licensure; experience acceptable to the board.

An applicant for a license in the classes in 4 MCAR § 11.034 shall have experience acceptable to the board to qualify to take the applicable examination for licensure under Minnesota Statutes, section 326.242, subdivisions 1, 2, and 3. "Experience acceptable to the board" means the applicant shall have at least the stated minimum number of months experience for each category of work specified in 4 MCAR § 11.034 and shall receive credit for no more than the stated maximum number of months for each category of work specified. The types of experience acceptable in each class of license in 4 MCAR § 11.034 is the writing within or on buildings or other structures or premises, except in the process of manufacturing.

Electrical experience is not acceptable to the board if gained by an applicant prior to age 12. The maximum experience allowance is six months for experience gained by an applicant prior to age 16.

Not more than one year of experience credit toward a license is acceptable to the board for electrical experience gained in the military service.

Not more than one year of experience credit toward a license is acceptable to the board for electrical experience gained in foreign countries.

Practical experience is not acceptable to the board if acquired during the school term of a board-approved post high school electrical course.

4 MCAR § 11.034 Schedule of minimum experience requirements for license applicants and maximum credit allowances in months.

A. Class A master electrician (60 months required). The board requires that an applicant for a class A master electrician license has the following minimum experience in months, and may receive up to the following maximum credit allowance for each of the following types of experience:

1. planning for the installation of wiring, apparatus, and equipment for light, heat, and power: Minimum experience of two months, maximum credit allowance of 12 months;

2. laying out for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of two months, maximum credit allowance of 12 months;

3. supervising the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of two months, maximum credit allowance of 12 months;

4. wiring for and installing electrical wiring, apparatus, and equipment: minimum experience of 12 months, maximum credit allowance of 48 months;

5. maintaining and repairing electrical wiring, apparatus, and equipment: minimum experience of zero months, maximum credit allowance of 24 months;

6. line work: minimum experience of zero months, maximum credit allowance of three months;
7. installing elevators: minimum experience of zero months, maximum credit allowance of six months;
8. laying out and installing wiring, apparatus, and equipment for home appliances: minimum experience of zero months, maximum credit allowance of three months;
9. wiring and maintaining electronic controls: minimum experience of zero months, maximum credit allowance of three months.

B. Class A journeyman electrician (48 months required). The board requires that an applicant for a Class A journeyman electrician license has the following minimum experience in months, and may receive up to the following maximum credit allowance for each of the following types of experience:

1. planning for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;
2. laying out for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;
3. supervising the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;
4. wiring for and installing electrical wiring, apparatus, and equipment: minimum experience of 24 months, maximum credit allowance of 48 months;
5. maintaining and repairing electrical wiring, apparatus, and equipment: minimum experience of one month, maximum credit allowance of 24 months;
6. line work: minimum experience of zero months, maximum credit allowance of three months;
7. installing elevators: minimum experience of zero months, maximum credit allowance of six months;
8. laying out and installing wiring, apparatus, and equipment for home appliances: minimum experience of zero months, maximum credit allowance of three months.
9. wiring and maintaining electronic controls: minimum experience of zero months, maximum credit allowance of three months.

C. Master elevator constructor (60 months required). The board requires that an applicant for a master elevator constructor license has the following minimum experience in months, and may receive up to the following maximum credit allowance for each of the following types of experience:

1. planning for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of 12 months;
2. laying out for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of 12 months;
3. supervising the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of 12 months;
4. wiring for and installing electrical wiring, apparatus, and equipment: minimum experience of zero months, maximum credit allowance of 48 months;
5. maintaining and repairing electrical wiring, apparatus, and equipment: minimum experience of zero months, maximum credit allowance of 24 months;
6. line work: minimum experience of zero months, maximum credit allowance of three months;
7. installing elevators: minimum experience of 24 months, maximum credit allowance of 60 months;
8. laying out and installing wiring, apparatus, and equipment for home appliances: minimum experience of zero months, maximum credit allowance of three months;

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PROPOSED RULES

9. wiring and maintaining electronic controls: minimum experience of zero months, maximum credit allowance of three months.

D. Elevator constructor (36 months required). The board requires that an applicant for an elevator constructor license has the following minimum experience in months, and may receive up to the following maximum credit allowance for each of the following types of experience:

1. planning for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;

2. laying out for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;

3. supervising the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;

4. wiring for and installing electrical wiring, apparatus, and equipment: minimum experience of zero months, maximum credit allowance of 36 months;

5. maintaining and repairing electrical wiring, apparatus, and equipment: minimum experience of zero months, maximum credit allowance of 12 months;

6. line work: minimum experience of zero months, maximum credit allowance of three months;

7. installing elevators: minimum experience of 12 months, maximum credit allowance of 36 months;

8. laying out and installing wiring, apparatus, and equipment for home appliances: minimum experience of zero months, maximum credit allowance of three months;

9. wiring and maintaining electronic controls: minimum experience of zero months, maximum credit allowance of three months.

E. Maintenance electrician (48 months required). The board requires that an applicant for a maintenance electrician license has the following minimum experience in months, and may receive up to the following maximum credit allowance for each of the following types of experience:

1. planning for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;

2. laying out for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;

3. supervising the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;

4. wiring for and installing electrical wiring, apparatus, and equipment: minimum experience of zero months, maximum credit allowance of 24 months;

5. maintaining and repairing electrical wiring, apparatus, and equipment: minimum experience of 24 months, maximum credit allowance of 48 months;

6. line work: minimum experience of zero months, maximum credit allowance of three months;

7. installing elevators: minimum experience of zero months, maximum credit allowance of six months;

8. laying out and installing wiring, apparatus, and equipment for home appliances: minimum experience of zero months, maximum credit allowance of three months;

9. wiring and maintaining electronic controls: minimum experience of zero months, maximum credit allowance of three months.

F. Lineman (48 months required). The board requires that an applicant for a lineman license has the following minimum experience in months, and may receive up to the following maximum credit allowance for each of the following types of experience:

1. planning for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;

2. laying out for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;

3. supervising the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;

4. wiring for and installing electrical wiring, apparatus, and equipment: minimum experience of zero months, maximum credit allowance of 12 months;

5. maintaining and repairing electrical wiring, apparatus, and equipment: minimum experience of zero months, maximum credit allowance of 12 months;

6. line work: minimum experience of 24 months, maximum credit allowance of 48 months;

7. installing elevators: minimum experience of zero months, maximum credit allowance of three months;

8. laying out and installing wiring, apparatus, and equipment for home appliances: minimum experience of zero months, maximum credit allowance of three months;

9. wiring and maintaining electronic controls: minimum experience of zero months, maximum credit allowance of three months.

G. Class B master electrician (36 months required). The board requires that an applicant for a class B master electrician license has the following minimum experience in months, and may receive up to the following maximum credit allowance for each of the following types of experience:

1. planning for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of one month, maximum credit allowance of four months;

2. laying out for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of one month, maximum credit allowance of four months;

3. supervising the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of one month, maximum credit allowance of four months;

4. wiring for and installing electrical wiring, apparatus, and equipment: minimum experience of 12 months, maximum credit allowance of 33 months;

5. maintaining and repairing electrical wiring, apparatus, and equipment: minimum experience of one month, maximum credit allowance of 12 months;

6. line work: minimum experience of zero months, maximum credit allowance of three months;

7. installing elevators: minimum experience of zero months, maximum credit allowance of three months;

8. laying out and installing wiring, apparatus, and equipment for home appliances: minimum experience of zero months, maximum credit allowance of three months;

9. wiring and maintaining electronic controls: minimum experience of zero months, maximum credit allowance of three months.

H. Class B journeyman electrician (24 months required). The board requires that an applicant for a class B journeyman electrician license has the following minimum experience in months, and may receive up to the following maximum credit allowance for each of the following types of experience:

1. planning for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;

2. laying out for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;

3. supervising the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;

4. wiring for and installing electrical wiring, apparatus, and equipment: minimum experience of 12 months, maximum credit allowance of 24 months;

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PROPOSED RULES

5. maintaining and repairing electrical wiring, apparatus, and equipment: minimum experience of one month, maximum credit allowance of 12 months;
6. line work: minimum experience of zero months, maximum credit allowance of three months;
7. installing elevators: minimum experience of zero months, maximum credit allowance of three months;
8. laying out and installing wiring, apparatus, and equipment for home appliances: minimum experience of zero months, maximum credit allowance of three months;
9. wiring and maintaining electronic controls: minimum experience of zero months, maximum credit allowance of three months.

I. Class A installer (12 months required). The board requires that an applicant for a class A installer license has the following minimum experience in months, and may receive up to the following maximum credit allowance for each of the following types of experience:

1. planning for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;
2. laying out for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;
3. supervising the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;
4. wiring for and installing electrical wiring, apparatus, and equipment: minimum experience of zero months, maximum credit allowance of 12 months;
5. maintaining and repairing electrical wiring, apparatus, and equipment: minimum experience of zero months, maximum credit allowance of six months;
6. line work: minimum experience of zero months, maximum credit allowance of three months;
7. installing elevators: minimum experience of zero months, maximum credit allowance of three months;
8. laying out and installing wiring, apparatus, and equipment for home appliances: minimum experience of zero months, maximum credit allowance of 12 months;
9. wiring and maintaining electronic controls: minimum experience of zero months, maximum credit allowance of three months.

J. Class B installer (12 months required). The board requires that an applicant for a class B installer license has the following minimum experience in months, and may receive up to the following maximum credit allowance for each of the following types of experience:

1. planning for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;
2. laying out for the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;
3. supervising the installation of wiring, apparatus, and equipment for light, heat, and power: minimum experience of zero months, maximum credit allowance of zero months;
4. wiring for and installing electrical wiring, apparatus, and equipment: minimum experience of zero months, maximum credit allowance of 12 months;
5. maintaining and repairing electrical wiring, apparatus, and equipment: minimum experience of zero months, maximum credit allowance of six months;
6. line work: minimum experience of zero months, maximum credit allowance of three months;
7. installing elevators: minimum experience of zero months, maximum credit allowance of three months;
8. laying out and installing wiring, apparatus, and equipment for home appliances: minimum experience of zero months, maximum credit allowance of three months;
9. wiring and maintaining electronic controls: minimum experience of zero months, maximum credit allowance of three months.

4 MCAR § 11.035 Experience acceptable to the board for certain categories in certain situations.

Experience in the categories of planning for the installation of wiring, apparatus, and equipment for light, heat, and power; laying out for the installation of wiring, apparatus, and equipment for light, heat, and power; supervising the installation of wiring, apparatus, and equipment for light, heat, and power; and wiring and installing electrical wiring, apparatus, and equipment for light, heat, and power is acceptable to the board in the following situations:

1. Experience while in the employ of an electrical contractor licensed under Minnesota Statutes, section 326.242, subdivision 6;

2. Experience while working in Minnesota for an employer who is not required to be licensed as an electrical contractor, if the work is inspected under Minnesota Statutes, section 326.244;

3. Experience while performing electrical work in Minnesota for an employer who is exempt from licensing when the work is exempt from inspection, under Minnesota Statutes, section 326.244, or when the work is performed on federal property by a federal employee, provided that the board has determined in either situation that the experience is substantially equal to that acquired in performing work while in the employ of a licensed electrical contractor. The board shall make this determination after a personal inspection on the premises where the applicable work was performed, by not less than two board members and one staff employee of the board.

4. Experience while performing electrical work outside the state of Minnesota, which the board has determined is substantially equivalent to the work performed while in the employ of a licensed electrical contractor in the state of Minnesota. This determination must be based on a certification by the employer of the type of work performed.

“Graduate of a four-year electrical course” as used in Minnesota Statutes, section 326.242, subdivision 1, clause (1) (a) means that the applicant has received a Bachelor of Electrical Engineering Degree from an accredited university or college.

For the purposes of this rule, “maintaining and repairing electrical wiring, apparatus, and equipment” means that type of electrical work that board rule Elec-29 (b) permits a licensed maintenance electrician to perform. This work includes only trouble-shooting, replacement, or repair of existing electrical wiring, apparatus, and equipment. It does not include the installation of new wiring, apparatus, and equipment or additions, alterations, or extensions to existing wiring, apparatus, or equipment.

4 MCAR § 11.036 Master elevator constructor.

A. Definition. “Master elevator constructor” means a person who has the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation of wiring, apparatus, and equipment for elevators and escalators, and who is licensed as such by the State Board of Electricity.

B. Permitted work. A person licensed as a master elevator constructor, may, as a licensed electrical contractor or in the employ of an electrical contractor, plan, lay out, supervise and install, maintain, and repair wiring, apparatus, and equipment for elevators and escalators.

C. Acceptable experience. An applicant for a master elevator constructor license shall have the experience indicated in 4 MCAR § 11.034 C.

4 MCAR § 11.037 Elevator constructor.

A. Definition. “Elevator constructor” means a person who has the necessary qualifications, training, experience, and technical knowledge to wire for, install, and repair electrical wiring, apparatus, and equipment for elevators and escalators and who is licensed as such by the State Board of Electricity.

B. Permitted work. A person licensed as an elevator constructor may install, maintain, and repair electrical wiring, apparatus, and equipment for elevators and escalators while in the employ of an electrical contractor.

C. Acceptable experience. An applicant for an elevator constructor license shall have the experience required in 4 MCAR § 11.034 D.

4 MCAR § 11.038 Lineman.

A. Definition. “Lineman” means a person who has the necessary qualifications, training, experience, and technical knowledge to construct and maintain transmission and distribution systems of the electric utility from the power source to and

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including the substation and the distribution system to the consumer (commercial and residential), and who is licensed as such by the State Board of Electricity.

B. Permitted work. A person licensed as a lineman may install, maintain, and repair transmission and distribution systems of the electric utility from the power source to and including the substation, and the distribution system to the consumer.

C. Acceptable experience. An applicant for a lineman license shall have the experience required in 4 MCAR § 11.034 F.

State Board of Education Department of Education Special Services Division

Proposed Temporary Rules Governing Public Library Construction Grants

Notice of Intent to Adopt Temporary Rules

Notice is hereby given that the State Board of Education is proposing to adopt temporary rules to govern public library construction grants as authorized by Chap. 314, Art. 11, Sec. 20 of the Session Laws of 1983. The proposed temporary rules appear following this notice.

All interested persons are hereby afforded the opportunity to submit data and views on the proposed temporary rules for 20 days immediately following publication of this material in the *State Register*. Comments should be submitted in writing to:

William G. Asp, Director
Office of Public Libraries and Interlibrary Cooperation
301 Hanover Building
480 Cedar Street
St. Paul, Minnesota 55101

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

After the 20 day comment period the proposed temporary rules, with modifications, if any, will be sent to the Office of the Attorney General for final approval as to form and legality. The temporary rules shall take effect immediately upon the Attorney General's approval.

The temporary rules shall remain in effect for 180 days or until permanent rules are adopted, whichever occurs first.

July 12, 1983

Ruth E. Randall, Secretary

Temporary Rule as Proposed (all new material)

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

A. Definitions. As used in 5 MCAR § 1.0807 [Temporary], the following terms have the meanings given them.

1. "OPLIC" means Office of Public Libraries and Interlibrary Cooperation of the Minnesota Department of Education that administers the public library construction grant program.

2. "Project" means a plan by an applicant for a grant under 5 MCAR § 1.0807 [Temporary] to erect a new public library building; or acquire and alter a building for use as a public library building; or remodel or expand an existing public library building; and acquire necessary land for, and initially equip the resultant building; all, to be financed in part by the grant.

B. Application.

1. Who may apply. A regional public library system, or a city or county participating in a regional public library system may apply for a public library construction grant under 5 MCAR § 1.0807 [Temporary].

2. An application for this public library construction grant must be made on an application form provided by OPLIC. The form includes a copy of the list of standard assurances required by the federal government.

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

1. A copy of:

a. the resolution passed by the applicant's governing body approving the application and authorizing execution of the grant contract if federal funds are available;

b. a narrative description of the project explaining the inadequacy of present library facilities and the contribution the project will make to new or improved services in the applicant's service area;

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

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

e. certification by a Minnesota registered architect that the project's facilities are designed to make them accessible to and usable by physically disabled persons as required by Code of Federal Regulations, Title 34, section 75.610, and Minnesota Statutes, sections 471.465 to 471.469;

f. a statement of the relationship of the project to, and probable effect on, any district site, building, structure, or object that is:

(1) included in the National Register of Historic Places; or

(2) eligible under criteria established by the Secretary of the Interior for inclusion in the National Register of Historic Places, as required in Code of Federal Regulations, title 34, section 75.605;

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

h. applicant's assessment of the impact of the project on the quality of the environment in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 and Executive Order 11514 (34FR4247) as required by Code of Federal Regulations, title 34, section 75.601;

i. the project budget including estimated costs of site acquisition, contracts for new construction, initial equipment, architect and other fees, and the nature, source, and amount of all nonfederal funds available for the project.

j. evidence that the applicant holds legal title to the project site including right of access, or that the applicant can complete negotiations for legal title to the site within 30 days of approval of the application.

2. Assurances. The applicant must give written assurance of compliance with all applicable state and federal laws, rules, regulations, and other requirements including particularly:

a. each specific assurance listed on Part V, Assurances, on the Application for Federal Assistance (for Construction Programs), Federal Register, volume 42, pages 45878-45879. The list is also included in the application form.

b. the federal laws and regulations the state is made responsible for enforcing in Code of Federal Regulations, title 34, parts 74, 76, and 770; and section 75.600-75.616.

c. when required by the federal program legislation, with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (Code of Federal Regulations, title 29, part 5). This applies to all construction contracts and subcontracts awarded by the recipients and subrecipients of more than \$2,000. Under this act contractors and subcontractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in wage determination made by the secretary of labor. In addition, contractors and subcontractors shall be required to pay wages not less than once per week. The recipient or subrecipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of contract or subcontract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the federal sponsoring agency.

d. when federal program legislation provides that the Davis-Bacon Act applies, with the Copeland Antikick Back Act

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(18 U.S.C 874) as supplemented in Department of Labor regulations (Code of Federal Regulations, title 29, part 3). This applies to all construction and repair contracts and contracts of recipients and subrecipients in excess of \$2,000. It provides that each contractor or subcontractor shall be prohibited from inducing by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The recipient shall report all suspected or reported violations to the federal sponsoring agency.

e. Minnesota Statutes, sections 171.41 to 171.44, relating to prevailing wage rates.

f. Minnesota Statutes, section 104.08 for an applicant whose project site is in an area subject to recurrent flooding in a local government unit included on the commissioner of natural resources list of units having such areas.

g. that the applicant receiving a grant for a project shall display at the project site a sign stating that federal funds provided under the Library Services and Construction Act are being used for this project. If specifications call for a plaque in the completed building indicating the date of completion and source of funds, the applicant assures that the plaque shall state that funds were provided under the Library Services and Construction Act.

D. Additional information. The Director of OPLIC may request additional information from the applicant to clarify and evaluate the application. If the additional information requested is not provided by the applicant within ten working days after the request for additional information, the grant application shall be evaluated solely on the basis of the information it contains.

E. Application dates. Applications for public library construction grants must be filed on a date established by the State Board of Education and published in the *State Register* and in the newsletter of OPLIC not less than 90 days before such date. Notwithstanding the application dates established herein and during fiscal year 1984 only, an application for the grant must be filed on or before October 1, 1983.

F. Regional review. A city or county applicant must provide a copy of the application to the board of the regional public library system in which the applicant participates no less than ten working days prior to the application date. The system board may provide written comment to the director of OPLIC by the application date.

G. Minimum project sizes.

1. For new construction and for renovation of an existing building for use as public library, the minimum project size is a total project cost of at least \$50,000 and a resultant building of at least 2,500 square feet.

2. For an addition to a public library building, renovation of an existing public library building, removal of architectural barriers for physically disabled persons, renovation for energy efficiency, and renovation, remodeling, or construction of an addition to a public library building originally constructed with assistance from Library Services and Construction Act (LSCA) Title II funds, the total project cost must be at least \$25,000 and the resultant library building must be at least 2,500 square feet.

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

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

1. The library site must provide maximum convenient access to the greatest number of people in the community during the normal course of their daily activities by being:

a. located at or near the center of highest density of daily activity and near such facilities as post offices and retail stores;

b. located on a primary street, preferably at an intersection;

c. highly accessible to pedestrian traffic within the area;

d. convenient to parking; and

e. convenient to public transportation in cities where it is available.

2. The exterior of the library must be:

a. easily identifiable as a library with exterior signs;

b. lighted for safe access during evening hours;

c. designed so that the single public entrance or major public entrance is convenient for pedestrian traffic and to parking lots, and is barrier-free for physically disabled persons; and

d. designed for convenient delivery of library materials.

3. The interior of the library must be:

a. designed to be as flexible and open as possible with a minimum of load bearing walls to allow for major rearrangement of services within existing spaces for future expansion;

- b. designed to be completely accessible to physically disabled persons;
 - c. designed to be in compliance with state and local building, fire, safety, and other codes;
 - d. provided with year-round humidity and temperature control. In construction of new library buildings, natural ventilation shall be available in all parts of the building;
 - e. designed to include one circulation desk to serve the entire building and to serve as the control point for maximum sight supervision of the building. If the building size exceeds 20,000 square feet, more than one circulation desk is permitted;
 - f. designed, with a functional arrangement of all public and nonpublic areas, for ease of movement through the building for users and staff, and for economical use of space;
 - g. lighted at 50 to 70 foot-candles at table-top height in public service areas and 30 to 50 foot-candles at table-top height in storage areas, with lights evenly distributed and of a quality to provide adequate light without glare;
 - h. designed on a single ground floor level; if the building size exceeds 20,000 square feet a second floor is permitted.
4. The total floor space of the building and the amount of space for shelving, readers, staff work space, and additional space shall be calculated using the following guidelines for determining minimum space requirements:

GUIDELINES FOR DETERMINING MINIMUM SPACE REQUIREMENTS

Population Served	Shelving Space (a)			Reader Space	Staff Work Space	Estimated Additional Needed (c)	Total Floor Space
	Size of Book Collection	Linear Feet of Shelving (b)	Amount of Floor Space				
2,500-4,999	10,000 vol. plus 3 books per capita for pop. over 3,500	1,300 linear ft. Add 1 ft. of shelving for every 8 bks. over 10,000	1,000 sq. ft. Add 1 sq. ft. for every 10 bks. over 10,000	Min. 500 sq. ft. for 16 seats. Add 5 seats per M. over 3,500 pop. served, at 30 sq. ft. per reader space	300 sq. ft.	700 sq. ft.	2,500 sq. ft. or 0.7 sq. ft. per capita, whichever is greater
5,000-9,999	15,000 vol. plus 2 books per capita for pop. over 5,000	1,875 linear ft. Add 1 ft. of shelving for every 8 bks. over 15,000	1,500 sq. ft. Add 1 sq. ft. for every 10 bks. over 15,000	Min. 700 sq. ft. for 23 seats. Add 4 seats per M. over 5,000 pop. served, at 30 sq. ft. per reader space	500 sq. ft. Add 150 sq. ft. for each full time staff member over 3	1,000 sq. ft.	3,500 sq. ft. or 0.7 sq. ft. per capita, whichever is greater
10,000-24,999	20,000 vol. plus 2 books per capita for pop. over 10,000	2,500 linear ft. Add 1 ft. of shelving for every 8 bks. over 20,000	2,000 sq. ft. Add 1 sq. ft. for every 10 bks. over 20,000	Min. 1,200 sq. ft. for 40 seats. Add 4 seats per M. over 10,000 pop. served, at 30 sq. ft. per reader space	1,000 sq. ft. Add 150 sq. ft. for each full time staff member over 7	1,800 sq. ft.	7,000 sq. ft. or 0.7 sq. ft. per capita, whichever is greater
25,000-49,999	50,000 vol. plus 2 books per capita for pop. over 25,000	6,300 linear ft. Add 1 ft. of shelving for every 8 bks. over 50,000	5,000 sq. ft. Add 1 sq. ft. for every 10 bks. over 50,000	Min. 2,250 sq. ft. for 75 seats. Add 3 seats per M. over 25,000 pop. served, at 30 sq. ft. per reader space	1,500 sq. ft. Add 150 sq. ft. for each full time staff member over 13	5,250 sq. ft.	15,000 sq. ft. or* 0.6 sq. ft. per capita, whichever is greater

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

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

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

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

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

J. Project priorities.

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

a. Applications for projects in counties having an average unemployment rate of 9.4 percent or above during the period June through November, 1982, according to unemployment data compiled by the Minnesota Department of Employment Security.

b. Applications for projects in counties having an average unemployment rate of more than 7.0 percent but less than 9.4 percent during the period June through November, 1982, according to unemployment data compiled by the Minnesota Department of Employment Security.

c. All other applications.

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

a. Construction of a new public library building free of architectural barriers.

b. Renovation of an existing building not currently used as a public library for use as a public library that will be free of architectural barriers.

c. An addition to a public library building or renovation of an existing public library building that will be free of architectural barriers. The buildings referred to herein do not include buildings originally constructed with assistance from LSCA Title II funds.

d. Projects with the sole purpose of removal of architectural barriers in a public library building.

e. Renovation of a public library building for energy efficiency to maximize the efficient use of energy and to minimize the use of petroleum and natural gas as energy sources.

f. Renovation, remodeling, or construction of an addition to a public library building originally constructed with assistance from LSCA Title II funds.

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

4. Projects shall be funded in order by category and within a category by subcategory until all available funds have been granted. In order to ensure the use of all available funds, the first priority project for which insufficient funds remain to award the amount of grant requested shall be offered a grant amount less than the dollar amount requested. The applicant shall then be requested to indicate whether or not the project as proposed could be implemented with a smaller grant amount, and shall be requested to show how the project could be modified, if necessary, to meet all criteria with a smaller project budget. If the applicant is unable to modify the project, the same request shall be made to applicants in descending order of priority until all funds are granted.

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

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

M. Grant agreements.

1. Grant contract required. A grant contract shall be offered to each applicant whose project application is approved for funding by the State Board of Education. The contract must be signed by a person authorized to commit the applicant to legally binding agreements and to execute the contract.

2. Contents of grant contract. The grant contract shall include:

a. a work program which indicates completion dates for major parts of the project and the projected budget supporting the work program;

b. a description of the manner in which payments will be made to grant recipients with the condition that five percent of the grant award will not be paid until successful completion of all activities in the work program and until receipt by OPLIC of an audit of receipts and disbursements of all funds for the project. The audit shall be performed by the staff of the State Auditor's Office, by a certified public accountant, or by a public accountant as defined in Minnesota Statutes, sections 6.64 to 6.71.

c. assurance that the grant recipient will comply with all applicable state and federal laws, including the federal laws or regulations for which the state is made responsible for enforcement in Code of Federal Regulations, title 34, parts 74, 76, and 770; and section 75.600-75.616.

d. assurance that the grant recipient will supply to OPLIC a tabulation of all bids received, showing the bids accepted.

e. assurance that OPLIC will be notified of project completion within 30 days after project completion so that it may notify the United States Department of Education as required by Code of Federal Regulations, title 34, section 770.21 (a) (2).

Department of Energy and Economic Development Economic Development Division

Proposed Repeal of Rules Governing Designation of Enterprise Zones

Notice of Intent to Repeal Rules without a Public Hearing

Notice is hereby given that the Department of Energy and Economic Development proposes to repeal the rules governing designation of enterprise zones (4 MCAR §§ 2.501-2.508). The Commissioner of the Department of Energy and Economic Development has determined that the proposed repeal of these rules will be non-controversial in nature and has elected to follow the procedures set forth in Minn. Statute § 14.21-14.28. The repeal of these rules is necessary because the statute has been repealed and replaced with chapter 392 *Laws of Minnesota 1983*. These rules are therefore no longer functional.

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

Unless 7 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 14.13-14.20. Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

W. Wesley Cochrane
Acting Deputy Commissioner
MN. Department of Energy and Economic Development
480 Cedar Street, Room 100
St. Paul, Minnesota 55101

Authority for repeal of these rules is contained in Minn. Stat. § 116.110. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of the repeal of the rule and identifies the data and information relied upon to support the proposed rule repealer, has been prepared and is available from W. Wesley Cochrane upon request.

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

Copies of this notice and the proposed rule repealer are available and may be obtained by contacting W. Wesley Cochrane.

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Rules as Proposed

Repealer. Rules 4 MCAR §§ 2.501; 2.502; 2.503; 2.504; 2.505; 2.506; 2.507; and 2.508, are repealed.

Department of Public Welfare Income Maintenance Bureau

Proposed Temporary Rules Governing Reimbursement Methodology for Hospital Inpatient Care Provided under the Medical Assistance and General Assistance Medical Care Programs (12 MCAR §§ 2.05401-2.05403 Temporary)

Notice of Intent to Adopt Temporary Rules

The State Department of Public Welfare proposes to adopt the above-entitled temporary rules to implement *Laws of Minnesota* 1983, chapter. 312.

Persons interested in these rules have until August 22, 1983 to submit written comments. The proposed temporary rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Written comments should be sent to:

Thomas JoliCoeur
Health Care Programs Division
Income Maintenance Bureau
Department of Public Welfare
1st Floor, Space Center
444 Lafayette Road
St. Paul, MN 55164
(612) 296-8822

Upon adoption of these temporary rules, this notice, all written comments received, and the adopted temporary rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

The adopted temporary rules will not become effective without the Attorney General's approval and the Revisor of Statute's certification of the rules' form.

As required by the Administrative Procedures Act, Minnesota Statutes, chapter 14, these temporary rules shall be in effect for up to 180 days following their adoption and may be continued in effect for an additional 180 days if the Commissioner gives notice of continuation by publishing notice in the *State Register* and mailing the same notice to all persons registered with the Commissioner to receive notice of rulemaking proceedings. The temporary rules shall not be effective 360 days after their effective date without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

12 MCAR §§ 2.05401-2.05403 establish a prospective inpatient hospital reimbursement methodology for all hospitals which participate in the Medical Assistance and/or General Assistance Medical Care Programs. This rate methodology promotes cost containment through efficient and economical hospital operation by offering financial incentives without negative affects on patient care.

These rules also prescribe a method for implementing the statutory limitations in the growth of rates paid for inpatient hospital care, as found in Minnesota Statutes, section 256.966, with amendments in Laws of 1983, chapter 312. These rules contain provisions on definitions of terms; determination of allowable base year costs; determination of annual hospital cost index; determination of the payable rate per admission and rate per day; payment procedures; and appeals.

These temporary rules will not result in any additional state or county spending beyond the amount of funds appropriated under *Laws of Minnesota* 1983, chapter 312.

Copies of this notice and the proposed temporary rule may be obtained by contacting Sandra Searles at (612) 296-3386.

Leonard W. Levine,
Commissioner of Public Welfare

Temporary Rules as Proposed (all new material)

12 MCAR § 2.05401 [Temporary] General provisions on reimbursement methodology for hospital inpatient care provided under the medicare assistance and general medical care programs.

A. Statutory authority, purpose, and applicability.

1. Authority. 12 MCAR §§ 2.05401-2.05403 [Temporary] are enacted under the authority granted the commissioner of

public welfare by *Laws of Minnesota 1983*, chapter 312, article 5, sections 9 and 39. The provisions of 12 MCAR §§ 2.05401-2.05403 [Temporary] are to be read in conjunction with code of Federal Regulations, titles XVIII and XIX and Minnesota Statutes, chapters 256, 256B, and 256D. Any provision of 12 MCAR §§ 2.05401-2.05403 [Temporary] that is inconsistent with any of the provisions of those laws and/or regulations is superseded thereby. The Minnesota Department of Public Welfare, as the state agency responsible for the administration of the medical assistance and general assistance medical care programs may issue instructional bulletins, manual materials, and forms, as necessary, to assist in compliance with these rules.

2. Purpose and applicability. 12 MCAR §§ 2.05401-2.05403 [Temporary] establish a prospective inpatient hospital reimbursement methodology for all hospitals which participate in the medical assistance and/or general assistance medical care programs. This rate methodology promotes cost containment through efficient and economical hospital operation by offering financial incentives without negative effects on patient care.

Rules 12 MCAR §§ 2.05401-2.05403 [Temporary] also prescribe a method for implementing the statutory limitation in the growth of rates paid for inpatient hospital care, as found in Minnesota Statutes, section 256.966, as amended by *Laws of Minnesota 1983*, chapter 312, article 5, sections 6 and 39, as those limits apply to hospitals not yet subject to the prospective rate determination system.

B. Definitions.

1. Applicability. As used in 12 MCAR §§ 2.05401-2.05403 [Temporary], the following terms have the meanings given them.

2. Adjusted base year costs. "Adjusted base year costs" means allowable base year costs cumulatively adjusted by the annual hospital cost index for years prior to the budget year, and adjustments resulting from exceptions and/or appeals, if applicable.

3. Allowable base year costs. "Allowable base year costs" means a hospital's total program reimbursable cost as identified in the hospital's base year medicare/medicaid cost report with the following adjustments.

a. deduct hospital malpractice insurance costs that have been apportioned to the program as identified in the base year cost report;

b. deduct pass-through capital costs (pass-through costs other than malpractice insurance costs) apportioned to the program based on the ratio of reimbursable program costs to total reimbursable costs as identified in the base year cost report;

c. add costs disallowed on the medicare/medicaid cost report due to Public Law Number 92-603, section 223, inpatient routine service cost limitations, and Public Law Number 92-603, section 233, lower of cost or charge limitation; and

d. using the hospital cost index revise program reimbursable costs, as identified in the medicare/medicaid cost report, adjusted by a., b., and c. for the period between the base year fiscal year end and July 1, 1983.

4. Base year. "Base year" means each hospital's fiscal year ending during calendar year 1981.

5. Budget year. "Budget year" means each hospital's most immediate upcoming fiscal year.

6. Commissioner. "Commissioner" means the commissioner of public welfare.

7. Current year. "Current year" means each hospital's current fiscal year.

8. Department. "Department" means the Department of Public Welfare.

9. Hospital cost index. "Hospital cost index (HCI)" means a single percentage factor applied annually to allowable base year costs, or, subsequent to the initial year, to the adjusted base year costs, to adjust costs for inflation and technology.

10. Out-of-area hospital. "Out-of-area hospital" means any hospital outside of Minnesota which had fewer than 20 inpatient admissions of program eligibles in the year before a given rate year. Any hospital outside of Minnesota with 20 or more program admissions will receive reimbursement on the same basis as a hospital in Minnesota.

11. Minimal participation. "Minimal participation" means a hospital with fewer than 100 program admissions in any given rate year.

12. Pass-through costs. "Pass-through costs" means those hospital cost categories which are not subject to the HCI. Pass-through costs are limited to the following categories as defined by medicare:

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- a. depreciation;
- b. rents and leases;
- c. property taxes and license fees;
- d. interest; and
- e. malpractice insurance.

No pass-through costs will be allowable if they are derived from capital projects requiring a certificate of need for which any applicable certificate of need was not granted.

13. Prior year. "Prior year" means each hospital's most recently concluded fiscal year.

14. Program. "Program" means the medical assistance ("medicaid" or "M.A.") program established under Minnesota Statutes, section 256B and the provisions of the Social Security Act, title XIX. The term includes or may alternatively mean the general assistance medical care program established under Minnesota Statutes, section 256D, as the context may require.

15. Prospective reimbursement system. "Prospective reimbursement system" means a method of paying hospital inpatient care on the basis of a rate per admission or rate per day, or some combination thereof, determined in advance of the delivery of care, rather than by the traditional systems of paying for care on the basis of customary charges or audited prorated costs.

16. Rate per admission. "Rate per admission" means the allowable base year costs per program admission, or, subsequent to the initial year, the adjusted base year costs, times the budget year hospital cost index plus budget year pass-through costs per program admission.

17. Rate per day. "Rate per day" means the allowable payment per day of care when payment is not based on a rate per admission.

C. Determination of allowable base year costs for period beginning July 1, 1983, through July 30, 1987.

1. Each hospital participating in medicaid must submit its medicaid/medicare cost report for the base year. Final allowable base year costs will be calculated from the submitted cost report.

2. Allowable base year costs will be calculated as follows, using data from the Health Care Financing Administrator (HCFA) Form 2552 Worksheet, 1981 revision:

- (1) Total reimbursable program costs: _____
(Worksheet E-5, Part 1, Line 17)
- (2) Reimbursable malpractice insurance costs _____
(Worksheet E-5, Part 1, Line 5)
- (3) Net reimbursable program costs _____
(Line 1 minus Line 2)
- (4) Total costs (Worksheet A, Column 3, _____
Line 84)
- (5) Malpractice insurance costs _____
(Worksheet A, Column 5, Line 71)
- (6) Net total costs (Line 4 minus Line 5) _____
- (7) Overall program utilization (Line 3 _____
divided by Line 6)
- (8) Total pass-through capital costs _____
(Worksheet A, Column 7, Lines 2 and 3)
- (9) Calculated program pass-through capital _____
costs (Line 7 times Line 8)
- (10) Program routine service costs before _____
limitation (Worksheet D-1, Line 57)
- (11) Program reimbursable routine service _____
costs (Worksheet D-1, Line 61)
- (12) Program reimbursable routine service _____
costs subject to limitation
(Line 10 minus Line 11)

- (13) Program adjusted reimbursable costs (Line 3 plus Line 12, minus Line 7) _____
- (14) Program admissions for persons not enrolled in medicare, Part A _____
- (15) Program adjusted reimbursable costs per admission (Line 13 divided by Line 14) _____
- (16) Applicable hospital cost index(es) _____
- (17) Final base year costs per admission (Line 15 times Line 16) _____

D. Determination of annual hospital cost index.

1. The department shall publish 30 days prior to the start of each calendar quarter the hospital cost index to be used for the succeeding fiscal year. Each hospital whose fiscal year starts during a given calendar quarter will be subject to the HCI published 30 days prior to the start of that quarter. During the quarter beginning July 1, 1983, an HCI will not be published, but each hospital affected by that HCI shall be notified in writing of the HCI when it is determined.

2. The department shall obtain, from an independent source, inflation estimates to be used in the calculation of the hospital cost index. The hospital cost index will represent a weighted average of inflation estimates determined for the expense categories described below plus an additional one percent to reflect changes in technology. To the extent possible, the HCI shall reflect regional differences in the expenses constituting the HCI. The HCI shall include the following factors:

- a. salaries;
- b. employee benefits;
- c. medical fees;
- d. raw food;
- e. medical supplies;
- f. pharmaceuticals;
- g. utilities;
- h. repairs and maintenance;
- i. insurance (other than malpractice); and
- j. other operating expenses approved by the commissioner.

3. The department shall weight the expense of the categories to approximate the proportionate weight found in the aggregate of the hospitals in Minnesota.

4. Subsequent to the initial year, a factor to adjust for the difference between estimated and actual inflation for the prior year will be calculated into the HCI.

5. The HCI is subject to legislatively imposed limitations.

E. Determination of the payable rate per admission and rate per day.

1. Hospital submission of financial information. For each fiscal year, each hospital must submit a report to the department containing its pass-through costs and admissions data. The report shall include actual data for the prior year and budgeted data for the current and budget years. The report is due 30 days prior to the start of the hospital's next fiscal year. The report shall include the following information:

Category	Prior Year (Actual)	Current Year (Budget)	Budget Year (Budget)
Depreciation	_____	_____	_____
Rents and leases	_____	_____	_____

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Property taxes, license fees (and other taxes)	_____	_____	_____
Interest	_____	_____	_____
Malpractice insurance	_____	_____	_____
TOTAL PASS-THROUGH COSTS	_____	_____	_____
Admissions	_____	_____	_____
PASS-THROUGH COSTS PER ADMISSION	_____	_____	_____
Patient days	_____	_____	_____
PASS-THROUGH COSTS PER PATIENT DAY	_____	_____	_____

2. Pass-through costs. Pass-through costs per admission for the budget year shall be calculated from the submitted hospital report.

3. Rate per admission. The rate per admission for the budget year shall be calculated as follows:

$$\text{RATE} = [(\text{Allowable base year costs per program admission}) \text{ multiplied by } (\text{budget year hospital cost index}), \text{ plus } (\text{budget year pass-through costs per program admission})]$$

Subsequent to the initial year, adjusted base year costs is used in the above formula instead of allowable base year costs. In calculating the budget year pass-through costs per program admission, the count of total admissions and the ratio of program admissions to total admissions will be taken from the hospital's base year.

After the end of each budget year, the commissioner shall, upon request, recalculate the rate per admission and/or the rate per day and the actual values for program admissions and total admissions. The commissioner may subsequently adjust the amounts paid to the hospital. The adjustment may be either a single payment to or from a hospital or an adjustment to a hospital's subsequent year's rate(s).

4. The department shall review hospital pass-through costs and admissions data as part of the appeal process described in H.

F. Payment procedures.

1. Standard billing data required. Hospitals shall submit complete medicaid billing forms on paper or by approved computer-tape data exchange following existing procedures, or in such modified fashion as may be prescribed by the commissioner after 120 days' written notice by program provider bulletin.

2. When billing forms may be submitted. Billing forms shall not be submitted until the patient dies, is discharged, or has been a patient for at least 30 days, whichever comes first.

3. Payments in response to billings. The department shall pay the applicable rate per day or rate per admission for eligible patients after processing the first properly submitted bill. Billings may be rejected for lack of required prior-authorizations, surgical second opinion documentation, or for other utilization-review reasons. If a billing reflects inappropriate utilization, as determined by the commissioner, a per diem debit may be made to the rate per admission.

4. Final bills. If a patient is still hospitalized when the first bill is submitted to the department, a final bill must be sent containing the type-of-bill code indicating that the bill is for information only or for documentation of the eligibility of the case for additional payments for an unusual length of stay. When a final bill or information-only continuation bill is not received within six months of the date of admission, the billing shall be deemed to be in noncompliance with this rule and any payment originally made shall be repaid to the department.

5. Medicare crossover claims shall be paid as follows:

$$\text{Payment Amount} = (\text{medicare deductibles}), \text{ plus} \\ (\text{medicare coinsurance}), \text{ plus} \\ [(\text{Amounts covered by medicaid but not by medicare}) \text{ times } (\text{raw allowable base year costs divided by total base year charges for persons not eligible for medicare Part A})]$$

Medicare crossover claims shall be billed to the department following existing procedures and data reporting requirements or in such other fashion as the commissioner may provide for after 120 days' written notice by program provider bulletin.

6. Payments to out-of-area hospitals. Out-of-area hospitals shall be paid their submitted customary charges multiplied by

their last available medicaid or medicare interim reimbursement rate from their home-state medicaid program or medicare intermediary. If a lesser amount would be payable by the medicaid program in a hospital's home state and can be reasonably determined, that lesser amount shall be paid.

G. Exceptions to the payment mechanism. Exceptions to the rate per admission shall be granted in the following circumstances:

1. Minimal participation. A hospital with a history of minimal participation may elect to be reimbursed on a rate per day basis in lieu of rate per admission reimbursement. The hospital must submit a written request to the commissioner at least 30 days prior to the beginning of the budget year for which rate per day reimbursement is sought. At the conclusion of the budget year, the amount paid may be adjusted according to E.3.

2. Unusual length of stay. If a hospital has an M.A. or G.A.M.C. client admission involving an unusually long length of stay, the hospital shall be entitled to a per diem payment in addition to the rate per admission. An unusually long length of stay will be defined by the appeals board in each case, as will the per diem adjustment, if any.

3. Disproportionate population. The Minnesota prospective hospital payment system will take into account the situation of hospitals which serve a disproportionate number of low income patients. Hospitals with a disproportionate number of M.A. and/or G.A.M.C. clients shall receive an adjustment to the rate per admission. If the percentage of M.A. and/or G.A.M.C. admissions exceeds 15 percent, a percentage increase to the rate per admission will be calculated as follows:

For: Percentage of total acute care admissions which are Medicaid	Increase in rate per admission
15-20%	¼ of 1% for each percentage point above 15%
21-25%	½ of 1% for each percentage point above 20%
26-30%	¾ of 1% for each percentage point above 25%
31% and above	1% for each percentage point above 30%

For example, if a hospital's medicaid ratio was 23 percent, the rate per admission would be increased by 2.75 percent. This adjustment is made to hospital rates after the application of any statutory limits to the growth in hospital rates or unit costs.

H. Appeals.

1. Appointment of appeals board. The commissioner shall appoint an appeals board to hear and evaluate requests for changes in the rate per admission or rate per day payable for hospitals subject to the prospective hospital reimbursement system or the limits on per-admission payments governed by 12 MCAR §§ 2.05401-2.05403 [Temporary].

2. Composition of appeals board. The appeals board shall consist of two representatives of the state of Minnesota, two representatives of the hospital industry, and one representative of the business or consumer community. Representatives shall serve for a period of two years. Nongovernmental representatives shall receive a per diem rate and expenses as determined by the commissioner.

3. Authority of appeals board. The appeals board shall have recommendation authority to the commissioner to adjust hospital rates.

4. Issues to be heard by appeals board. The appeals board shall hear written requests for rate redeterminations on:
- mix changes;
 - additions of approved new services;
 - deletions of services;
 - denied applications for exceptions;

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- e. modifications of pass-through costs;
- f. catastrophic events;
- g. catastrophic patient cases; and
- h. rate reduction resulting from inappropriate levels of utilization.

5. Procedures of appeals board. The appeals board shall follow the procedures of the Office of Administrative Hearings for hearings based on the Revenue Recapture Act, in 9 MCAR §§ 2.501-2.519, with the following modifications:

a. Definitions. The definitions in 9 MCAR § 2.502 are modified as follows:

- (1) "Agency" means the Minnesota Department of Public Welfare.
- (2) "Hospital" means the hospital seeking review of a rate set by the commissioner.
- (3) "Party" means the agency, the hospital, or any other person granted permission to intervene.
- (4) "Service" may be accomplished by delivering a document to the business office of a hospital in person during regular business hours, or by mailing the document to the business address of the hospital, postage paid, by first class United States mail. Service is complete upon mailing.

b. Initiation of appeal. 9 MCAR § 2.503 is modified as follows:

(1) A hospital which wants to appeal a rate established by the commissioner must submit a written notice of appeal to the appeals board within 30 days of the effective date of the rate complained of or within 30 days of the change in circumstances which occasioned the appeal.

(2) Within 90 days of the receipt of a notice of appeal, the board shall issue a notice of hearing.

c. Notice of hearing. Rule 9 MCAR § 2.504 B.3. is modified as follows: a brief statement of the issues to be determined at the hearing, together with a citation to any relevant statutes and rules. Rule 9 MCAR § 2.504 B.10. is modified as follows: that failure to appear will result in dismissal of the appeal, with prejudice.

d. Default. Rule 9 MCAR § 2.505 B. is modified as follows: If the agency appears at the hearing, but the hospital does not, the appeal will be dismissed with prejudice. If the hospital appears at the hearing, but the agency does not, the allegations in the notice of appeal will be deemed true, and the appeals board shall recommend that the appeal be granted.

e. Subpoenas. Subpoenas may be issued by the commissioner under Minnesota Statutes, section 256B.13, and 9 MCAR § 2.509, except that a request for a subpoena shall be submitted to the chief representative of the appeals board.

f. Conduct of the hearing. Hearings shall be conducted pursuant to 9 MCAR § 2.511, with the following exceptions:

- (1) no hearing examiner shall be assigned to an appeal filed with the appeals board;
- (2) a member of the appeals board shall open the hearing by reading the title of the case and briefly stating the issues; and

(3) the burden of proof shall be on the hospital challenging the rate established by the commissioner, and the hospital shall begin the presentation of evidence.

g. Rights of nonparties. Rule 9 MCAR § 2.513 is modified as follows: A nonparty may not testify or offer evidence without the approval of the appeals board.

h. The appeals board shall have all the rights and obligations conferred upon a hearing examiner by 9 MCAR §§ 2.501-2.519. The term "appeals board" shall be substituted for the terms "hearing examiner" or "examiner" wherever those terms appear in 9 MCAR §§ 2.501-2.519, except as otherwise specified by this rule.

i. Chief representative. The appeals board shall appoint one of its members to serve as the chief representative. The member may fix the time and place of hearings, and to receive and recommend action to the commissioner upon receipt of request for subpoenas.

j. Appeal rights. A hospital aggrieved by the decision of the commissioner may appeal that decision by filing a written notice of appeal with the commissioner within 30 days of the date of the decision complained of. Any such appeal shall be conducted pursuant to the contested case procedures of Minnesota Statutes, chapter 14 and the rules of the Office of Administrative Hearings.

12 MCAR § 2.05402 [Temporary] General assistance medical care ("G.A.M.C.") cases.

1. Applicability of rule. All provisions of 12 MCAR §§ 2.05401-2.05403 [Temporary] shall apply equally to G.A.M.C. cases and rates, substituting the terms and data for G.A.M.C. for the terms and data referenced for medicaid, as applicable.

2. Rateable reductions. No provision in 12 MCAR §§ 2.05401-2.05403 [Temporary] shall be construed to increase or decrease any discount ("rateable reduction") charged against G.A.M.C. claims in determining the final payment amount.

12 MCAR § 2.05403 [Temporary] Special provisions.

A. Purpose. In accordance with Minnesota Statutes, section 256.966, the annual increase in the cost per unit paid to any vendor under medical assistance and general assistance medical care shall not exceed eight percent for admissions from January 1, 1982, through June 30, 1983.

B. Definitions.

1. Adjusted base year costs. "Adjusted base year costs" means allowable base year costs cumulatively adjusted by the annual eight percent cap factor, and adjustments resulting from appeals, if applicable.

2. Allowable base year costs. "Allowable base year costs" means each hospital's total program reimbursable costs as defined in the medicare/medicaid cost report adjusted as follows:

a. deduct hospital malpractice insurance costs that have been apportioned to the program in the base year cost report;

b. deduct pass-through capital costs (pass-through costs other than malpractice insurance costs) apportioned to the program based on the ratio of reimbursable program costs to total reimbursable costs in accordance with the medicare/medicaid cost report;

c. add costs disallowed on the medicare/medicaid cost report due to Public Law Number 92-603, section 223, inpatient routine service cost limitations, and Public Law Number 92-603, section 233, lower of cost or charge limitations;

d. using a year and inflation adjustment index, revise program reimbursable costs, as identified in the base year the program cost report adjusted by 2. a., b., and c., for the period between the base year, fiscal year, and July 1, 1983.

3. Base year. "Base year" means each hospital's fiscal year ending during calendar year 1981.

4. Eight percent cap. "Eight percent cap" means the limit on cost increase per unit of service pursuant to state legislation.

5. Pass-through costs. "Pass-through costs" means those hospital cost categories which are not subject to the eight percent cap. Pass-through costs are limited to the following categories as defined by medicare:

- a. depreciation;
- b. rents and leases;
- c. property taxes and license fees;
- d. interest; and
- e. malpractice insurance.

6. Rate per admission. "Rate per admission" means allowable base year costs per program admission, or subsequent to the initial year, adjusted base year costs, times the budget year eight percent cap, plus budget year pass-through costs per program admissions.

C. Determination of allowable base year cost per program admission for the period January 1, 1982, through June 30, 1983.

1. Each hospital participating in medical assistance will submit its medicare/medicaid cost report for the base year. Final allowable base year costs will be calculated from the audited medicare/medicaid cost report.

2. Allowable base year costs per program admission will be computed as follows, using data from the Health Care Financing Administrator (HCFA) Form 2552 Worksheet, 1981 revision:

- (1) Total reimbursable M.A. program costs _____
(Worksheet E-5, Part 1, Line 17)
- (2) Reimbursable malpractice insurance costs _____
(Worksheet E-5, Part 1, Line 5)

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- (3) Net reimbursable program cost (Line 1 minus Line 2) _____
- (4) Total costs (Worksheet A, Column 3, Line 84) _____
- (5) Malpractice insurance costs (Worksheet A, Column 5, Line 71) _____
- (6) Net total costs (Line 4 minus Line 5) _____
- (7) Overall program utilization (Line 3 divided by Line 6) _____
- (8) Total pass-through capital costs (Worksheet A, Column 7, Lines 2 and 3) _____
- (9) Calculated program pass-through capital cost (Line 7 times Line 8) _____
- (10) Program routine service costs before limitation (Worksheet D-1, Line 57) _____
- (11) Program reimbursable routine service costs (Worksheet D-1, Line 61) _____
- (12) Program routine service costs subject to limitation (Line 10 minus Line 11) _____
- (13) Program adjusted reimbursable costs (Line 3 minus Line 9 plus Line 12) _____
- (14) Program admissions for persons not enrolled in medicare Part A _____
- (15) Program adjusted reimbursable costs per admission (Line 13 divided by Line 14) _____
- (16) Eight percent cap applied _____
- (17) Allowable base year cost per admission (Line 15 times Line 16) _____

D. Determination of rate per admission.

1. Reports for each fiscal year. Each hospital shall submit a report to the department containing pass-through costs and admission data. The report will include actual data for the prior year, and budgeted data for the current and budget years as specified in 12 MCAR § 2.05401 [Temporary] E.1.d.

2. Application of eight percent cap. The department will annually multiply the eight percent cap times the base year rate per admission. Subsequent to the initial year, adjusted base year per admission is used in place of base year rate per admission.

3. Calculation of rate per admission. The rate per admission for the budget year will be calculated as follows: allowable base year costs per program admission multiplied by budget year eight percent cap, plus budget year pass-through costs per program admission. Subsequent to the initial year, adjusted base year costs are used in the above formula instead of allowable base year costs.

4. Payment procedures shall be as specified in 12 MCAR § 2.05401 [Temporary] F.

5. Appeals shall be pursuant to 12 MCAR § 2.05401 [Temporary] H.

6. General assistance medical care costs shall be reimbursed as specified in 12 MCAR § 2.05402 [Temporary].

E. Four percent reduction. Payment to medical assistance providers is reduced four percent for services provided January 1, 1983, through June 30, 1983, as provided in Laws of Minnesota 1983, Third special session, chapter 8, article II, subdivision 4(a)(4). The following procedure will be used to implement this four percent reduction:

1. Cost report. Each hospital must submit a special cost report covering the period January 1, 1983, through June 30, 1983.

2. Application of four percent reduction. The rate per admission for each hospital, as determined pursuant to 12 MCAR § 2.05403 [Temporary] C.2., shall be reduced by four percent for each admission during the period from January 1, 1983, through June 30, 1983.

**Department of Public Welfare
Bureau of Social Services****Proposed Temporary Rule Governing Child Day Care Sliding Fees (12 MCAR § 2.164
Temporary)****Notice of Intent to Adopt Temporary Rule**

The State Department of Public Welfare proposes to adopt the above-entitled temporary rule to implement *Laws of Minnesota 1983*, chapter 312, article 2.

Persons interested in this rule have until August 22, 1983 to submit written comments. The proposed temporary 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. Written comments should be sent to:

Jerry Ferguson
Social Services Bureau
Department of Public Welfare
4th Floor, Centennial Building
St. Paul, MN 55155
(612) 297-3635

Upon adoption of this temporary rule, this notice, all written comments received, and the adopted temporary rule will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

The adopted temporary rule will not become effective without the Attorney General's approval and the Revisor of Statute's certification of the rule's form.

As required by the Administrative Procedures Act, Minnesota Statutes, chapter 14, this temporary rule shall be in effect for up to 180 days following its adoption and may be continued in effect for an additional 180 days if the Commissioner gives notice of continuation by publishing notice in the *State Register* and mailing the same notice to all persons registered with the Commissioner to receive notice of rulemaking proceedings. The temporary rule shall not be effective 360 days after its effective date without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

Under Minnesota Statutes, sections 245.83-245.87, as amended, 12 MCAR § 2.164 (Temporary) governs the administration of the Child Day Care Sliding Fee Program for reducing, according to a sliding fee, the cost of child care for eligible families. To be eligible for this program, a family's income must be between the income level established for eligibility for the Aid to Families with Dependent Children Program to 90 percent of the state median income. This temporary rule contains provisions on the allocation appropriations of child day care monies to local social service agencies and on family eligibility for funding assistance.

This temporary rule will not result in any additional state spending beyond the amount of funds appropriated under *Laws of Minnesota 1983*, chapter 312 or additional county spending beyond the amount currently required by Minnesota Statutes, section 245.84, subdivision 2.

Copies of this notice and the proposed temporary rules may be obtained by contacting Jerry Ferguson at (612) 297-3635.

Leonard W. Levine,
Commissioner of Public Welfare

Temporary Rule as Proposed (all new material)**12 MCAR § 2.164 [Temporary] Child day care sliding fee program.**

A. Introduction. Under Minnesota Statutes, sections 245.83 to 245.87, this rule governs the administration of the child day care sliding fee program for reducing, according to a sliding fee schedule, the cost of child care for eligible families.

B. County allocation.

1. The recipient of a child day care sliding fee program allocation shall be a county or a group of counties. The county may designate any public or nonpublic agency to administer the program.

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2. Because of the limited appropriation for the child day care sliding fee program and the requirement that the services of this program be provided to all persons entitled to them, first priority in allocating the appropriation will be given those counties with entitled families. Entitled families are those families which were receiving child care services under Minnesota Statutes, section 245.84, subdivision 2 on July 1, 1983. Remaining money will be allocated to the counties based upon the number of persons estimated to use the child day care sliding fee program services and the cost of the services as reported by the counties.

a. The allocation to each county for the state fiscal years 1984 and 1985 will be based on the estimated program costs as established by each county report and each county's program expenditures for state fiscal years 1982 and 1983.

b. In the event that the total estimated cost exceeds the appropriation, the percent the appropriation is to the estimated cost will be determined, and allocations made to the counties will be reduced according to that percentage.

c. In the event that the total estimated cost for those counties with entitled families is less than the total appropriation, the excess funds will be allocated to additional counties based upon the number of persons estimated to use the program and the expected cost.

d. Neither Region Eleven, nor Region One through Region Ten combined receive more than 55 percent of the appropriation.

3. All counties participating in the program for the first time shall provide a local match equal to five percent of the program cost. All other participating counties shall provide a local match equal to 15 percent of the program cost. For purposes of determining the local match, administrative costs must be considered to be the provider charge times seven percent. The local match does not include the amount of minimum fee payments made by families but may include in-kind materials and services, furnished by the county, required for the administration of the program.

C. Family eligibility for assistance.

1. Within the limits of the allocation and the required local match, each county must provide the services of this program to those persons entitled to the services under Minnesota Statutes, section 245.84, subdivision 2.

2. Entitled persons lose their eligibility when their income exceeds or falls below the income range used by the county at the time of entitlement.

3. Expansion of child day care sliding fee program services to other recipients will depend on additional county funding or state appropriation.

D. Alternative fee schedules. A county may propose an alternative fee schedule if it meets the following criteria:

1. Use of the state sliding fee schedule would impose a hardship such as substantially increased child care fees on families already participating in a sliding fee program;

2. The county can demonstrate how the use of their proposed fee schedule would reduce the incidence of lower income families remaining or becoming welfare recipients, increase the incentive for economic independence, and provide other benefits;

3. The county program serves a large enough population to demonstrate the impact of the program; and

4. The fee charged does not exceed the fee allowed in the state fee schedule. Participating counties shall only use one fee schedule for all eligible fee paying income groups receiving child day care services.

E. Applicability. Rule 12 MCAR § 2.164 [Temporary] governing the authority for establishing sliding fee schedules for child day care, the allocation of appropriations of child day care money to local social service agencies, and family eligibility for funding assistance will be in effect until it is superseded by a permanent rule, or for a maximum of 36 days.

Repealer. 12 MCAR § 2.163 A.1, B., C., and F., are repealed.

Occupational Safety and Health Review Board

Proposed Rules of Procedure for Practice Before the Occupational Safety and Health Review Board

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Occupational Safety and Health Review Board intends to adopt amendments and additions to the rules relating to the board without a public hearing. The board has determined that its proposed amendments

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and additions to the rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 14.21 to § 14.28 "Rulemaking: Procedure Applicable to Non-Controversial Rules." The statutory authority for promulgating these procedural rules is Minn. Stat. § 14.06 (1983).

Persons interested in these rules shall have 30 days from the date this notice is published in the *State Register* to submit, in writing, comments on the proposed rules. The proposed amendments and additions may be modified if the modifications are supported by the data and views submitted to the board and do not result in a substantial change.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 14.13 to § 14.20. The board suggests that requests for a public hearing also specify the particular objection, suggest modifications to the proposed language, and state the reasons for the suggested modifications.

All correspondence, including written requests for a hearing and written comments on the proposed changes to the rules, should be addressed to:

Cynthia D. Thompson, Clerk
Minnesota Occupational Safety and Health Review Board
444 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-8946

Persons may also receive notice when the proposed rules are submitted to the Attorney General by writing to Ms. Cynthia Thompson at the address listed above.

Copies of the proposed amended rules and copies of the Statement of Need and Reasonableness are now available, and one free copy of each may be obtained by writing to Ms. Cynthia Thompson at the address listed above. The Statement of Need and Reasonableness includes a summary of all of the board's evidence justifying both the need for, and the reasonableness of, the proposed amendments and additions to the rules. The board strongly recommends that both of the above-mentioned documents be carefully examined before a hearing is requested or comments are made on the proposed changes.

The proposed amended rules, if adopted, would make the rules consistent with statutory amendments which affect the Occupational Safety and Health Review Board. Generally, the changes in the rules are proposed in order to accomplish the following goals: (1) to bring the rules into compliance with statutory amendments; (2) to clarify and simplify procedures; and (3) to make the procedures more fair.

Rules as Proposed

~~MOSH~~ 250-8 MCAR § 1.7250 General provisions.

(a) A. Definitions. For the purposes of 8 MCAR §§ 1.7250-1.7255, the following terms have the meanings given them.

(1) 1. "Act" means the Minnesota Occupational Safety and Health Act of 1973, Minn. Laws 1973, Chapter 732 Minnesota Statutes, sections 182.65 to 182.674.

(2) 2. "Commissioner," "commission board," "person," "employer," and "employee," have the meanings set forth in Section 2 of the Act Minnesota Statutes, section 182.651.

(3) 3. "Chairman Chairperson" means the Chairman chairperson of the Commission board as designated by the governor.

(4) "Affected employee" means an employee of a cited employer who is exposed to the alleged hazard described in the citation, as a result of his assigned duties.

4. "Executive secretary" means the executive secretary of the Occupational Safety and Health Review Board.

(5) 5. "Hearing examiner" means a Hearing Examiner appointed by the Chairman of the Commission pursuant to Section 15, Subd. 3 of the Act person assigned to hear a contested case by the Office of Administrative Hearings.

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6. "Affected employee" means an employee of a cited employer who is exposed within the scope of his employment to the alleged hazard described in the citation.

~~(6)~~ 7. "Authorized employee representative" means a labor organization ~~which~~ that has a collective bargaining relationship with the cited employer and ~~which~~ that represents affected employees. It also means a person authorized to act on behalf of affected employees.

~~(7)~~ 8. "Representative" means any person, including an authorized employee representative or legal counsel for an authorized employee representative, authorized by a party or intervenor to represent him in a proceeding.

~~(8)~~ 9. "Citation" means a written communication issued by the commissioner to an employer pursuant to ~~Section 11 of the Act~~ Minnesota Statutes, section 182.66.

~~(9)~~ 10. "Notification of proposed penalty" means a written communication issued by the commissioner to an employer pursuant to ~~Section 12, subd. 1 or 2 of the Act~~ Minnesota Statutes, section 182.661, subdivision 1 or 2.

~~(10)~~ 11. "Day" means a calendar day.

~~(11)~~ 12. "Working day" means all days except Saturdays, Sundays, or holidays as defined in Minnesota Statutes, section 645.44.

~~(12)~~ 13. "Proceeding" means any proceeding before the ~~Commission~~ board or before a hearing examiner.

14. "Party" means each person named as a party by the board in the notice of and order for hearing, or persons granted permission to intervene pursuant to 9 MCAR § 2.210.

15. "Intervenor" means any person who has submitted a petition to intervene with the hearing examiner in accordance with 9 MCAR § 2.210.

16. "Person" means any individual, partnership, corporation, joint stock company, unincorporated association or society, municipal corporation, or any government or governmental subdivision unit or agency other than a court of law.

~~(b)~~ B. Scope of rules.

~~(1)~~ These Rules 8 MCAR §§ 1.7250-1.7255 shall govern all proceedings before the ~~Commission and its Hearing Examiners~~ board, except all contested case and rule hearing proceedings are governed by 9 MCAR §§ 2.101-2.222.

~~(2)~~ In the absence of a specific provision, procedures shall be in accordance with the Minnesota Administrative Procedure Act.

(c) Construction of terms

Particular words and phrases shall be construed according to the provisions of Minn. Stat., Chapter 645.

(d) Computation of time

~~In computing any period of time prescribed or allowed in these rules, the provisions of Minn. Stat., Chapter 645, shall be complied with.~~

~~(e)~~ C. Extensions of time. Requests for extensions of time for the filing of any pleading or document must be received by the board three days in advance of the date on which the pleading or document is due to be filed.

~~(f)~~ D. Record address. The initial pleading filed by any a person shall must contain his name, address, and telephone number. Any change in such the information must be communicated promptly in writing to the hearing examiner or the ~~Commission~~ board, as the case may be, and to all other parties and intervenors. A party or intervenor who fails to furnish such the information ~~shall be deemed to have waived~~ waives his right to notice and service under these rules E.

~~(g)~~ E. Service and notice.

~~(1)~~ 1. At the time of filing pleadings or other documents, a copy ~~thereof~~ shall be served by the filing party or intervenor on every other party or intervenor.

~~(2)~~ 2. Service upon a party or intervenor who has appeared through a representative ~~shall~~ must be made only upon such representative.

~~(3)~~ Unless otherwise ordered, service may be accomplished by postage prepaid first class mail or by personal delivery. Service is deemed effected at the time of mailing (if by mail) or at the time of personal delivery (if by personal delivery).

(4) Proof of service shall be accomplished by a written statement of the same which sets forth the date and manner of service. Such statement shall be filed with the pleading or document.

(5) Where service is accomplished by posting, proof of such posting shall be filed not later than the first working day following the posting.

(6) Service and notice to employees represented by an authorized employee representative shall be deemed accomplished by serving the representative in the manner prescribed in paragraph (3) of this section.

(7) In the event that there are any affected employees who are not represented by an authorized employee representative, the employer shall, immediately upon receipt of the notice of contest or petition for modification of the abatement period, post, where the citation is required to be posted, a copy of the notice of contest and a notice informing such affected employees of their right to party status and of the availability of all pleadings for inspection and copying at reasonable times. A notice in the following form shall be deemed to comply with this paragraph:

(Name of Employer)

Your employer has been cited by the Commissioner of Labor for violation of the Minnesota Occupational Safety and Health Act of 1973. The citation has been contested and will be the subject of a hearing before the Occupational Safety and Health Review Commission. Affected employees are entitled to participate in this hearing as parties under terms and conditions established by the Occupational Safety and Health Review Commission in its Rules of Procedure. Notice of intent to participate should be sent to:

Occupational Safety and Health Review Commission
444 Lafayette Road
St. Paul, Minnesota 55104

All papers relevant to this matter may be inspected at:

(Place reasonably convenient to employees, preferably at or near workplace.)

Where appropriate, the second sentence of the above notice will be deleted and the following sentence will be substituted:

The reasonableness of the period prescribed by the Commissioner of Labor for abatement of the violation has been contested and will be the subject of a hearing before the Occupational Safety and Health Review Commission.

(8) The authorized employee representative, if any, shall be served with the notice set forth in paragraph (7) of this section and with a copy of the notice of contest.

(9) A copy of the notice of the hearing to be held before the Hearing Examiner shall be served by the employer on affected employees who are not represented by an authorized employee representative by posting a copy of the notice of such hearing at or near the place where the citation is required to be posted.

(10) A copy of the notice of the hearing to be held before the Hearing Examiner shall be served by the employer on the authorized employee representative of affected employees in the manner prescribed in paragraph (3) of this section, if the employer has not been informed that the authorized employee representative has entered an appearance as of the date such notice is received by the employer.

(11) Where a notice of contest is filed by an affected employee who is not represented by an authorized employee representative and there are other affected employees who are represented by an authorized employee representative, the unrepresented employee shall, upon receipt of the statement filed in conformance with Section 252(f) of these rules, serve a copy thereof on such authorized employee representative in the manner prescribed in paragraph (3) of this section and shall file proof of such service.

(12) Where a notice of contest is filed by an affected employee or an authorized employee representative, a copy of the notice of contest and response filed in support thereof shall be provided to the employer for posting in the manner prescribed in paragraph (g) of this section.

(13) An authorized employee representative who files a notice of contest shall be responsible for serving any other authorized employee representative whose members are affected employees.

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PROPOSED RULES

~~(14) Where posting is required by this section, such posting shall be maintain until the commencement of the hearing or until earlier disposition.~~

3. Unless otherwise ordered, service may be made by postage prepaid first class mail, personal delivery, or by posting. Service is made at the time of mailing, personal delivery, or posting.

4. Service must be certified by a written statement that sets forth the date and manner of service. The statement must be filed with the pleading or document.

5. If service is made by posting, the posting must take place within two working days of receipt of the document posted. Certification of posting must be filed with the executive secretary within five working days of receipt of the document.

6. Where service is accomplished by first class mail or personal delivery, certification must be filed with the executive secretary within five working days of receipt of the document.

7. If there are any affected employees who are not represented by an authorized employee representative, the employer shall, within two working days of receiving the acknowledgement of the notice of contest or petition for modification of abatement date, post, where the citation is required to be posted, a copy of the notice of contest and a notice informing affected employees of their right to party status and of the availability of all pleadings for inspection and copying at reasonable times. A notice in the following form complies with this paragraph:

(Name of employer)

Your employer has been cited by the Commissioner of Labor and Industry for violation of the Minnesota Occupational Safety and Health Act of 1973. The citation has been contested and will be the subject of a hearing. Affected employees are entitled to participate in this hearing as parties under the terms and conditions established by the Occupational Safety and Health Review Board in its rules of procedure. Notice of intent to participate should be sent to: Executive Secretary, Occupational Safety and Health Review Board, 444 Lafayette Road, St. Paul, MN 55101, or any other address that the review board has.

All papers relevant to this matter may be inspected at:

(Place reasonably convenient to employees, preferably at or near workplace.)

Where appropriate, the second sentence of the above notice will be deleted and the following sentence will be substituted:

The reasonableness of the period prescribed by the Commissioner of Labor and Industry for abatement of the violations has been contested and will be the subject of a hearing.

8. Service and notice to affected employees not represented by an authorized employee representative are deemed accomplished by posting.

9. Certification of the posting required in 7. must be filed with the executive secretary of the board within five working days of receipt of the document. If the employer fails to certify the posting in the prescribed manner, the board shall dismiss the notice of contest.

10. If there are any affected employees who are represented by an authorized employee representative, the employer shall by first class mail or personal delivery serve upon the representative the notice set forth in 7. and a copy of the notice of contest.

11. Service and notice to employees represented by an authorized employee representative are deemed accomplished by serving the representative by first class mail or personal delivery.

12. Certification of the service required in 10. must be filed with the executive secretary of the board within five working days of receipt of the document. If the employer fails to certify the service in the prescribed manner, the board shall dismiss the notice of contest.

13. A copy of the notice of hearing to be held before the hearing examiner must be served by the employer on affected employees who are not represented by an authorized employee representative by posting within two days of receipt a copy of the notice of hearing at or near the place where the citation is required to be posted.

PROPOSED RULES

14. Certification of the posting required in 13. must be filed with the hearing examiner and a copy sent to the executive secretary of the board within five working days of receipt of the notice of hearing. If the employer fails to certify the posting in the prescribed manner, the notice of contest shall be dismissed.

15. A copy of the notice of hearing to be held before the hearing examiner shall be served by the employer on the authorized employee representative of affected employees, if any, by mail or personal delivery, if the employer has not been informed that the authorized employee representative has entered an appearance as of the date the notice is received by the employer.

16. Certification of the service of the notice of hearing required in 15. must be filed with the hearing examiner and a copy sent to the executive secretary of the board within five working days of receipt of the document. If the employer fails to certify the service in the prescribed manner, the notice of contest shall be dismissed.

17. When a notice of contest is filed by an affected employee who is not represented by an authorized employee representative and there are other affected employees who are represented by an authorized employee representative, the unrepresented employee shall, upon receiving acknowledgement by the board of his notice of contest, serve a copy on the authorized employee representative by mail or personal delivery and shall file certification of service with the executive secretary within five working days.

18. When a notice of contest is filed by an affected employee or an authorized employee representative, a copy of the notice of contest must be provided to the employer for posting in the manner prescribed in E.

19. An authorized employee representative who files a notice of contest is responsible for serving any other authorized employee representative whose members are affected employees.

20. Where posting is required by this section, posting must be maintained until commencement of the hearing or until earlier disposition.

21. If a settlement proposal is filed with the hearing examiner, it shall be served upon affected employees. For affected employees represented by an authorized employee representative, service shall be accomplished by personal delivery or first class mail to the representative. For affected employees not so represented, service shall be accomplished by posting. Proof of service of the settlement proposal on affected employees shall be filed with the hearing examiner.

(h) F. Filing.

(1) Prior to the assignment of 1. Before a case is assigned to a hearing examiner, all papers shall must be filed with the Chairman of the Commission at 444 Lafayette Road, St. Paul, Minnesota 55101 executive secretary. Subsequent to the assignment of After the case has been assigned to a hearing examiner and before the issuance of his decision, all papers shall must be filed with the hearing examiner at the address given in the notice informing such the parties of the assignment, with the exception of the certification of posting and service prescribed in E.14. and 16., which must be filed with the hearing examiner and the executive secretary. Subsequent to the After issuance of the decision to a by the hearing examiner, all papers shall must be filed with the chairman executive secretary of the commission board.

(2) 2. Unless otherwise ordered, all filing may be accomplished by first class mail.

(3) 3. Filing is deemed effected at the time of mailing.

(j) G. Consolidation. Cases may be consolidated on the motion of any party, on the hearing examiner's own motion, or on the Commission's board's own motion, where there exist common parties, common questions of law or fact, or both, or in such other circumstances as justice and the administration of the act require.

(j) H. Severance. Upon its own motion, or upon the motion of any party or intervenor, the Commission board or the hearing examiner may, for good cause, order any proceeding severed with respect to some or all issues or parties.

(k) I. Protection of trade secrets and other confidential information. Upon application by any person in a proceeding where trade secrets or other matters may be divulged, the hearing examiner shall issue such orders as may be appropriate to protect the confidentiality of such these matters.

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MOSHC 251 8 MCAR § 1.7251 Parties and representatives.

(a) A. Party status.

(1) 1. Affected employees or an authorized representative may elect choose to participate as parties at any time before the commencement of the hearing before the hearing examiner, unless for good cause shown, the Commission or the hearing examiner allows such election at a later time. See also Section 251(b) of these rules provided they file notice at least five days before the start of the hearing. The notice must contain the employees' names, addresses, representatives, if any, and a statement that they are employees of the cited employer. This notice shall be filed with the executive secretary if a hearing examiner has not yet been assigned. After a hearing examiner has been assigned, this notice shall be filed with the hearing examiner and served upon all other parties.

(2) 2. Where a notice of contest is filed by an employee or by an authorized employee representative with respect to the reasonableness of the period date for abatement of a violation, the employer charged with the responsibility of abating the violation may elect party status at any time before the commencement of the hearing before the hearing examiner. See also Section 251(b) of these rules type of alleged violation, the proposed penalty, or notification issued, the employer charged with the responsibility of the alleged violation may choose party status by filing a notice at least five days before the start of the hearing. The notice must contain the employer's name, address, and representative, if any. This notice shall be filed with the executive secretary if a hearing examiner has not yet been assigned. After a hearing examiner has been assigned, this notice shall be filed with the hearing examiner and served upon all other parties.

(b) Intervention; appearance by nonparties

(1) A petition for leave to intervene may be filed at any stage of a proceeding before commencement of the hearing before the hearing examiner.

(2) The petition shall set forth the interest of the petitioner in the proceeding and show that the participation of the petitioner will assist in the determination of the issues in question, and that the intervention will not unnecessarily delay the proceeding.

(3) The Commission or the hearing examiner may grant a petition for intervention to such an extent and upon such terms as the Commission or the hearing examiner shall determine.

(c) B. Representatives of parties and intervenors.

(1) 1. Any party or intervenor may appear in person or through a representative.

(2) 2. A representative of a party or intervenor shall be deemed to control all matters respecting the interest of such party or intervenor in the proceeding.

(3) 3. Affected employees who are represented by an authorized employee representative may appear only through such the authorized employee representative.

(4) 4. Nothing contained herein shall be construed to require requires any representative to be an attorney-at-law.

(5) 5. Withdrawal of appearance of any representative may be affected by filing a written notice of withdrawal and by serving a copy thereof on all parties and intervenors.

MOSHC 252 8 MCAR § 1.7252 Pleadings and motions.

(a) A. Form.

(1) 1. Except as provided herein in 8 MCAR § 1.7252, there are no specific requirements as to on the form of any pleading. A pleading is simply required to contain a caption sufficient to identify the parties in accordance with Section 252(b), which shall B. It must include the Commission's board's and the hearing examiner's docket number, if any, and a clear and plain statement of the relief that is sought, together with the ground therefor for the relief.

(2) 2. Pleadings and other documents (, other than exhibits) shall, must be typewritten, double spaced, on letter size opaque or otherwise be legible on paper (, approximately 8½ inches by 11 inches). The left margin shall be 1½ inches and the right margin 1 inch. Pleadings and other documents shall be fastened at the upper left corner.

(3) 3. Pleadings shall must be signed by the party filing or by his representative. Such Signing constitutes a representation by the signer that he has read the document or pleading, that to the best of his knowledge, information, and belief the statements made therein in it are true, and that it is not interposed for delay.

(4) 4. The Commission board may refuse for filing any pleading or document which that does not comply with the requirements of paragraphs (1) 1., (2) 2., and (3) of this section 3.

~~(b)~~ B. Caption; titles of cases.

~~(1)~~ 1. Cases initiated by a notice of contest shall be titled:

Commissioner of Labor and Industry,

Complainant

v.

(Name of contestant),

Respondent

~~(2)~~ 2. Cases initiated by a petition for modification of ~~the~~ abatement period date shall be titled:

(Name of employer),

Petitioner

v.

Commissioner of Labor and Industry,

Respondent

3. Cases in which a third party interest has been exercised shall be entitled:

Commissioner of Labor and Industry,

Complainant

v.

(Name of employer),

Respondent

(Name of Authorized Employee Representative),

Authorized

employee

representative

~~(3)~~ 4. The titles listed in ~~paragraphs (1) 1., 2., and (2) of this section shall~~ 3. must appear at the left upper portion of the initial page of any pleading or document ~~(, other than exhibits),~~ filed.

~~(4)~~ 5. The initial page of any pleading or document ~~(, other than exhibits) shall,~~ must show, at the upper right of the page, opposite the title, the docket number, if known, assigned by the ~~Commissioner~~ executive secretary of the board.

~~(c)~~ C. Notices of contest. The commissioner shall, within ~~30~~ seven working days of ~~receipt of~~ receiving a notice of contest, transmit the original to the ~~Commissioner~~ board, together with copies of all relevant documents.

~~(d)~~ D. Employer contests.

~~(1)~~ 1. Complaint.

~~(aa)~~ a. The commissioner shall file a complaint with the ~~Commission~~ board no later than 40 days after ~~his receipt of~~ receiving the notice of contest.

~~(bb)~~ b. The complaint ~~shall~~ must set forth all alleged violations and proposed penalties ~~which~~ that are contested, stating with particularity:

~~(i)~~ (1) the basis for jurisdiction;

~~(ii)~~ (2) the time, location, place, and circumstances of each ~~such~~ alleged violation; and

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~~(iii)~~ (3) the considerations upon which the period date for abatement and the proposed penalty on each such alleged violation is are based.

~~(ee)~~ Where c. If the commissioner seeks in his complaint to amend his citation or proposed penalty, he shall set forth the reasons for amendment and shall state with particularity the change sought.

d. At any time in the proceedings, an employer may withdraw his notice of contest.

2. Notice to respondent. The commissioner shall file and serve on the respondent no later than 40 days after receiving the notice of contest a notice stating the following:

a. that the basis for the board's authority to hold a hearing is to be found in Minnesota Statutes, section 182.664;

b. that the party has a right to be represented by legal counsel in all proceedings;

c. that the rules of the board and the rules of the Office of Administrative Hearings apply to the proceedings;

d. the name of the agency official or member of the Attorney General's staff to be contacted to discuss informal disposition under 9 MCAR § 2.207 or discovery under 9 MCAR § 2.214 C.; and

e. that a failure to appear at the hearing may result in the allegations of the pleadings being taken as true.

~~(2)~~ 3. Answer.

~~(aa)~~ a. Within 15 days after service of the complaint, the party against whom the complaint was issued shall file an answer with the Commission board.

~~(bb)~~ b. The answer ~~shall~~ must contain a short and plain statement denying those allegations in the complaint which the party intends to contest. Any allegation not denied ~~shall be~~ is deemed admitted.

c. If an answer is not filed with the executive secretary in a timely manner, the notice of contest shall be dismissed.

~~(e)~~ E. Petitions for modification of abatement period date.

~~(1) An employer may file with the Commissioner a petition for modification of an abatement period no later than the close of the next working day following the date on which abatement is required.~~

~~(2) The Commissioner shall transmit such petition to the Commission within 3 days after its receipt.~~

~~(3) The Commissioner shall file a response within 10 days of receipt of the petition.~~

~~(4) The burden of proving the need for modification of the abatement period shall rest with the petitioner.~~

1. When a petition for modification of abatement date filed under 8 MCAR § 1.7280 is objected to by the commissioner, affected employees, or an authorized employee representative, the petition must be processed as follows:

a. The petition, citation, and objections received by the Department of Labor and Industry must be forwarded to the board within three days after the expiration of the 15-day period set out in 8 MCAR § 1.7280 C.4.

b. The board shall docket and process the petition in the same manner as any other contested case, except that all hearings on the petitions must be handled on an expedited basis.

c. An employer petitioning for a modification of abatement date has the burden of proving that he has made a good faith effort to comply with the abatement requirements of the citation and that abatement has not been completed because of factors beyond his control.

d. Within ten days after receiving notice of the docketing by the board of any petition for modification of abatement date, each objecting party shall file a response setting forth the reasons for opposing the granting of a modification date different from that requested in the petition.

~~(f)~~ F. Employee contests.

~~(1) Where an affected employee or authorized employee representative files a notice of contest with respect to the abatement period, the commissioner shall, within 10 days from his receipt of the notice of contest, file a clear and concise statement of the reasons the abatement period prescribed by him is not unreasonable.~~

~~(2) No later than 10 days after receipt of the statement referred to in paragraph (1) of this section, the contestant shall file a response.~~

PROPOSED RULES

1. An affected employee or authorized employee representative may file a notice of contest with respect to the time fixed for abatement, the citation, the type of alleged violation, the proposed penalty, or notification issued.

2. Employee contestations will be handled in accordance with C. and D.

3. At any time in the proceedings, an employee may withdraw his notice of contest.

~~(g)~~ G. Statement of position. At any time prior to the commencement of the hearing before the hearing examiner, any ~~person entitled to appear as a party, or any person who has been granted leave to intervene,~~ party may file a statement of position with respect to any or all issues to be heard.

~~(h)~~ H. Response to motions. Any party ~~or intervenor~~ upon whom a motion is served ~~shall have 10~~ has ten days from service of the motion to file a response.

~~(i)~~ I. Failure to file. Failure to file any pleading pursuant to ~~these rules~~ 8 MCAR §§ 1.7250-1.7255 when due, may, in the discretion of the ~~Commission board~~ or the hearing examiner, constitute a waiver of the right to further participation in the proceedings.

J. Reinstatement. Request for reinstatement of a notice of contest which has been dismissed by the board for failure to comply with procedures must be made in writing and be filed with the executive secretary of the board within five days of receipt of the order of dismissal. This statement should contain reasons why the rules of procedure have not been complied with.

~~MOSH 255~~ 8 MCAR § 1.7253 Post hearing procedures.

~~(a)~~ A. Decisions of hearing examiners.

~~(1)~~ 1. The decision of the hearing examiner shall must include findings of fact, conclusions of law, and an order.

~~(2)~~ 2. The hearing examiner shall sign and date the decision. Upon issuance service of the decision by the hearing examiner, jurisdiction shall rest rests solely in the Commission board, and all subsequent motions, petitions, and other pleadings filed subsequent to such issuance shall must be addressed to the Commission board.

~~(b)~~ Discretionary Review, Petition B. Notice of appeal.

~~(1)~~ A 1. Any party aggrieved by the decision of a Hearing Examiner may submit file a petition for discretionary review notice of appeal of the findings and decision of a hearing examiner with the board.

~~(2)~~ The petition must be received by the Commission at its offices in St. Paul, Minnesota on or before the 25th day following receipt by the Commission of the hearing examiner's decision.

~~(3)~~ A petition should contain a concise statement of each portion of the decision and order to which exception is taken and may be accompanied by a brief of points and authorities relied upon. The original and three (3) copies shall be filed with the Commission.

~~(4)~~ Failure to act on such petition within the review period shall be deemed a denial thereof.

2. A notice of appeal must contain a concise statement of each portion of the findings and decision to which exception is taken. It may be accomplished by a statement of reasons relied upon. The notice of appeal must include the legal or factual issues that are raised on appeal. The original and four copies shall be filed with the board.

3. The notice of appeal must be received by the board at its offices in St. Paul, Minnesota, on or before the 30th day following publication of the hearing examiner's findings and decision.

4. Within ten days after the filing of a notice of appeal, any other party may file a notice of appeal of the hearing examiner's findings and decision regardless of the 30-day period stated in 3.

5. At the time of filing a notice of appeal, the party seeking appeal shall serve a copy of the notice of appeal on every other party of record.

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C. Briefs. The board may order the parties to file any briefs or memoranda it deems necessary. Each brief or memorandum must state the legal or factual issues involved in the appeal and each party's stance on these issues.

~~(e)~~ D. Stay of ~~Final~~ order of hearing examiner.

~~(1) Any party aggrieved by a final order of the Commission may, while the matter is within the jurisdiction of the Commission, file a motion for a stay.~~

~~(2) Such motion shall set forth the reasons a stay is sought and the length of the stay requested.~~

~~(3) The Commission may order such stay for the period requested or for such longer or shorter period as it deems appropriate. The timely filing by any party of a notice of appeal to the board stays the order of the hearing examiner.~~

~~(3)~~ E. Oral argument before the Commission board.

~~(1) Oral argument before the Commission ordinarily will not be allowed.~~

~~(2) In the event the Commission desires to hear oral argument with respect to any matter it will advise all parties to the proceeding of the date, hour, place, time allotted, and scope of such argument at least 10 days prior to the date set.~~

1. Oral argument before the board will be heard from each party or party's representative unless it is waived by that party.

2. At least ten days before the date set for oral argument, the executive secretary will advise all parties to the proceedings of the date, hour, place, time allotted, and scope of the argument.

3. The board is limited in its review of a hearing examiner's findings and decision to the matters preserved in the record.

F. Decision of hearing examiner not appealed to board. If no party files a notice of appeal within the 30-day time limit provided in B.2., the decision of the hearing examiner becomes a final order of the board.

~~MOSHC 256 Miscellaneous provisions~~ 8 MCAR § 1.7254

~~(a)~~ Settlement.

~~(1)~~ A. Settlement is encouraged at any stage of the proceedings where such if the settlement is consistent with the provisions and objections of the act.

~~(2) Settlement agreements submitted by the parties shall be accompanied by an appropriate proposed order.~~

~~(3) Where parties to settlement agree upon a proposal, it shall be served upon represented and unrepresented affected employees in the manner set forth in Section 250(g). Proof of such service shall accompany the proposed settlement when submitted to the Commission or the Hearing Examiner.~~

B. Settlement agreements must be signed and dated by each party.

C. Settlement agreements must contain a provision stating that the employer has served the agreement upon affected employees in the manner prescribed by 8 MCAR § 1.7250 E.21.

D. Settlement agreements submitted by the parties must be accompanied by an appropriate proposed order.

E. Only contested items are subject to settlement.

F. Once a settlement has been reached, the contesting party must withdraw the notice of contest.

G. All settlement agreements and orders must be approved by a hearing examiner. A settlement agreement and order shall not be approved until at least ten days following service of the settlement proposal on affected employees.

H. The board may vacate any settlement agreement and order that is contrary to the act or board rules.

I. An affected employee may file with the hearing examiner an objection to a proposed settlement agreement within ten days of service of the proposed agreement upon the employee.

8 MCAR § 1.7255 Miscellaneous provisions.

~~(b)~~ A. Expedited proceeding.

~~(1)~~ 1. Upon application of any party or intervenor, or upon his own motion, any ~~Commissioner~~ board member may order an expedited proceeding.

~~(2)~~ 2. When ~~such~~ an expedited proceeding is ordered, the executive ~~Commissioner~~ secretary shall notify all parties and intervenors.

~~(3)~~ 3. The hearing examiner assigned in an expedited proceeding shall make necessary rulings with respect to time for filing of pleadings and with respect to all other matters, without reference to times set forth in these rules, shall order daily transcripts of the hearing, and shall do all other things necessary to complete the proceeding in the minimum time consistent with fairness.

~~(e)~~ B. Standards of conduct. All persons appearing in any proceeding shall conform to the standards of ethical conduct required in the courts of the state of Minnesota.

~~(d)~~ C. Ex parte communication.

~~(1)~~ 1. With respect to the merits of any case not concluded, there shall be no ex parte communication, ~~with respect to the merits of any case not concluded,~~ between the ~~Commission~~ board, including any member, officer, employee, or agent of the ~~Commission board~~ who is employed in the decisional process, and any of the parties or intervenors.

~~(2)~~ In the event such 2. If ex parte communication occurs, the ~~Commission or the Hearing Examiner~~ board may make ~~such~~ orders or take ~~such~~ whatever action as fairness requires. Upon notice and hearing, the ~~Commission board~~ may take ~~such~~ any disciplinary action as is appropriate in the circumstances against any person who knowingly and willfully makes or solicits the making of a prohibited ex parte communication.

~~(e)~~ D. Restrictions ~~as to~~ on participation by investigative or prosecuting officers. In any proceeding noticed pursuant to the rules in this part, the ~~Commissioner of Labor and Industry~~ shall not participate or advise with respect to the report of the hearing examiner or the ~~Commission board~~ decision.

~~(f)~~ E. Inspection and reproduction of documents.

~~(1)~~ Subject to the provisions of law restricting public disclosure of information, any person may, at the offices of the ~~Commission board~~, inspect and copy any document filed in any proceeding.

~~(2)~~ Costs ~~shall be~~ are borne by ~~such~~ the person.

~~(g)~~ F. Restrictions with respect to former ~~employees~~ employee or member.

~~(1)~~ 1. No former ~~employee or member~~ of the ~~Commission board~~ or the Department of Labor and Industry ~~shall~~ may appear before the ~~Commission board~~ as an attorney or other representative for any party in any proceeding or other matter, formal or informal, in which he participated personally and substantially during the period of his employment or tenure.

~~(2)~~ 2. No former ~~employee or member~~ of the ~~Commission board~~ or the Department of Labor and Industry ~~shall~~ may appear before the ~~Commission board~~ as an attorney or other representative for any party in any proceeding or other matter, formal or informal, ~~for in which he was personally responsible involved~~ during the period of his employment or tenure, unless one year has elapsed since the termination of ~~such~~ the employment or tenure.

~~(h)~~ G. Special circumstances; waiver of rules. In special circumstances not contemplated by ~~the provisions of these rules~~ 8 MCAR §§ 1.7250-1.7255, or for good cause shown, the ~~Commission board~~ may, upon application by any party or intervenor, or on its own motion, after ~~3~~ three days notice to all parties and intervenors, waive any rule or make ~~such~~ any orders as justice or the administration of the act requires.

~~(i)~~ H. Penalties.

~~(1)~~ 1. All penalties assessed by the ~~Commission board~~ are civil.

~~(2)~~ 2. The ~~Commission board~~ has no jurisdiction under ~~Section 18 of the Act~~ Minnesota Statutes, section 182.667 and ~~will~~ must conduct no proceeding ~~thereunder~~ under it.

Repealer. Rules MOSHC 253 and 254 of the Department of Labor and Industry are repealed.

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

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 have been met and five working days after the date 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 Public Welfare Support Services Division

Adopted Rule Governing Reimbursement for Cost of Care of Patients of a State Hospital

The rule proposed and published at *State Register*, Volume 7, Number 45, pages 1621-1625, May 9, 1983, (7 S.R. 1621) is adopted with the following modifications:

12 MCAR § 2.027 Reimbursement for cost of care of patients in a state hospital.

C. Determination procedure.

3. Financial interview. When a person is interviewed, the department shall:

c. Inform the person that financial information obtained from the person will not be released without the person's written consent except pursuant to Minnesota Statutes, ~~sections 15.1611 to 15.1699~~ chapter 13;

F. Property; patient. Property shall be available to pay for the cost of the patient's care to the extent owned by the patient, subject to the exclusions in 1.-6.

2. Personal property. The value of the following personal property shall be excluded from consideration as a resource:

~~Up to \$2,000 in~~ The cash or liquid assets for a single patient and ~~up to \$4,000 in~~ the cash or liquid assets for a married couple. ~~These amounts shall be adjusted in accordance with the limits established by the legislature under the standard for medical assistance recipients as provided in Minnesota Statutes, section 256B.06, as from time to time amended;~~

1. Life insurance owned by the patient ~~up to a cash surrender value of \$1,500. This amount shall be adjusted in accordance with the limit established by the legislature under the standard for medical assistance recipients as provided in Minnesota Statutes, section 256B.07~~ 256B.06, as from time to time amended;

n. Burial expenses, including a burial lot and a prepaid burial account ~~up to \$750 plus \$200 accrued interest. These amounts, shall be adjusted in accordance with the limits established by the legislature under the standard for medical assistance recipients as provided in Minnesota Statutes, section sections 256B.06 to 256B.07, as from time to time amended.~~

Department of Labor and Industry Occupational Safety and Health Division

Adoption by Reference of Occupational Safety and Health Standards

Pursuant to Minn. Stat. § 182.655 (1982) notice was duly published at *State Register*, Volume 7, Number 49, p. 1722 (7 S.R. 1722) dated June 6, 1983 specifying the establishment and modification of certain Occupational Safety and Health Standards; specifically, the modified final interpretation of coal tar pitch volatiles—1910.1002; the stay for the knitting and hosiery industry under the Occupational Exposure to Cotton Dust Standard—1910.1043; corrections to the respirator fit testing requirements of the Occupational Exposure to Lead Standard—1910.1025; and the revised Hearing Conservation Amendment under the Occupational Noise Exposure Standard—1910.95(c).

No objections, comments or written requests for public hearing have been received; therefore, these Occupational Safety and Health Standards are adopted and are identical in every respect to their proposed form.

Steve Keefe
Commissioner of Labor and Industry

SUPREME COURT**Decisions Filed Friday, July 22, 1983****Compiled by Wayne Tschimperle, Clerk**

CX-82-284 Jeanne A. Reinhardt, *et al.*, Appellants, v. Roger S. Colton, M.D., *et al.* Ramsey County.

The trial court's exclusion of plaintiffs' medical expert's testimony for lack of foundation was not an abuse of discretion.

Because plaintiffs offered no evidence of causation, the trial court properly directed a verdict for defendants against the malpractice action brought by plaintiffs on a theory of negligence in treatment.

The trial court erred in directing a verdict for defendants against the malpractice action brought by plaintiffs on a theory of negligent nondisclosure of risk.

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

C3-82-725, C6-82-749 State of Minnesota v. James Arthur Charest, Appellant. Sherburne County and Anoka County.

Appellant's pleas of guilty of ten counts of receiving stolen property were not required to be vacated by reason of a subsequent immunity order where the transactions to which defendant had pleaded guilty were separate and distinct from the transaction which was the subject of the immunity order.

Affirmed. Peterson, J.

C1-82-1596 State of Minnesota, Appellant, v. Peter Eldon Kvam. Dakota County.

Record fails to support trial court's determination that police violated defendant's Fourth Amendment rights in stopping him.

Reversed and remanded for trial. Todd, J.

C8-82-655 Stephen Frank and Janet Frank v. Illinois Farmers Insurance Co., Appellant. Kandiyohi County.

The offer of underinsured motorist coverage mandated by Minn. Stat. § 65B.49, subd. 6(e) (1976) (repealed 1980) must be made by the insurer to the named insured under an existing policy of automobile insurance, or, in the absence of an existing policy, to the applicant for such a policy or to an agent authorized to act in the applicant's behalf.

The findings of the trial court that plaintiff Stephen Frank was the applicant for the policy of automobile insurance in this case and that no proper statutory offer of underinsured motorist coverage was made to him are not clearly erroneous.

Where there was neither a conclusion nor a finding by the trial court on the issue of agency and an omitted finding in that regard was not brought to the attention of the trial court, there is nothing before this court for review on that issue.

Affirmed. Wahl, J.

CX-82-1032 Jostens, Inc. v. CNA Insurance, Continental Casualty Company, Appellant. Ramsey County.

Where, at this stage of a class action, it is not free from doubt that some claims are outside policy coverage or the policy period, the defense costs are not to be apportioned but are to be borne by the insurer.

Interest on defense costs is to be paid by the insurer from the time the bills for such costs were submitted to it for payment.

Affirmed in part and reversed in part. Simonett, J. Took no part, Coyne, J.

C8-82-1479 State of Minnesota on behalf of Sandra Mae Gunderson, Appellant, v. David Charles Preuss. Anoka County.

To transfer child custody from one parent to another in modification of a prior court order, there must be findings of fact as to the factors set out in Minn. Stat. § 518.18 (1982). Here those findings are lacking.

Reversed and remanded. Simonett, J.

STATE CONTRACTS

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

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

Office of the Attorney General

Notice of Request for Proposals for Rate Design and Cost Studies for Northwestern Bell Telephone Company

Minnesota Attorney General Hubert H. Humphrey, III, is soliciting proposals from qualified consultants to perform an analysis of local exchange rate structures, service charges, cost of service evaluations, and related telephone rate design including local measured service in connection with the petition of Northwestern Bell Telephone Company which is anticipated will be filed in August, 1983. Respondents may address one or more issues in this case. The petition will be before the Minnesota Public Utilities Commission and a hearing will be held.

Final submission date: September 6, 1983

Estimated cost: \$2,000-\$28,000 depending upon scope of proposal.

Contact by telephone at (612) 296-9412 or in writing to:

Michael J. Bradley
Assistant Attorney General
1100 Bremer Tower
7th Place and Minnesota Street
St. Paul, MN 55101

Department of Economic Security Vocational Rehabilitation Division

Notice of Proposed Contracts—Federal Fiscal Year 1984

The Minnesota Department of Economic Security, Division of Vocational Rehabilitation is publishing notice that the contracts listed below are available and will be awarded for federal fiscal year 1984 (October 1, 1983 to September 30, 1984):

A. Notice of Proposed Contracts for Medical, Psychiatric, and Psychological Services

1. The Division of Vocational Rehabilitation is seeking an individual to function as the Chief Medical Consultant to provide services under contract as follows:

- a. Provide technical supervision and assistance, and review the work of field office medical consultants;
- b. Analyze the medical service program of the division and make recommendations for program modifications;
- c. Participate in the planning, development, and conduct of in-service training, for both medical consultants and DVR counseling supervisory staff, in the medical aspects of Vocational Rehabilitation;
- d. Assist the agency in the development of forms, procedures and other operational materials that relate to the medical program;
- e. Review individual case material in order to provide advice on diagnosis, prognosis, medical implications and functional limitations resulting from disability;
- f. Represent the agency at meetings of state and local medical societies;
- g. To review and comment on individual medical plans that exceed certain specific cost limitations;
- h. Assist in the recruitment and selection of field office medical consultants.

The medical consultant will be responsible to the Assistant Commissioner for Vocational Rehabilitation with primary

administrative direction coming from the Director of Client Services. The individual will be paid at a rate of \$55 per hour. The contract will require an average of 10 to 12 hours per week. Inquiries should be directed to:

William Niederloh
Director of Client Services
Division of Vocational Rehabilitation
3rd Floor—Space Center Bldg.
444 Lafayette Road
St. Paul, Minnesota 55101

2. The Client Services Section is seeking to employ individuals under contract who will meet with local staff of the section in order to provide them with advice, consultation, and training on medical and psychiatric or psychological aspects affecting the rehabilitation process for specific clients and for the agency, in general. This section will be seeking at least one medical and one psychiatric or psychological contractor in each of the following locations: Bemidji, Brainerd, Duluth, Fergus Falls, Mankato, Minneapolis, Rochester, St. Cloud, St. Paul, Virginia, Willmar and Worthington. All individuals will be paid at a rate of \$35 to \$50 per hour. Most contract work will require an average of 2 to 4 hours per week. Inquiries should be directed to:

William Niederloh
Director of Client Services
Division of Vocational Rehabilitation
3rd Floor—Space Center Bldg.
444 Lafayette Road
St. Paul, Minnesota 55101

3. The Social Security Disability Determination Services Section is seeking to employ individuals under contract who will advise and consult with disability examiner staff and others about medical and psychological aspects of impairments including the nature and severity of disease processes, appropriate medical development and case documentation for individual claims, proper application of SSA medical policy and assessment of the claimant's residual level of functioning. The contractor will also be required to certify the claimant's determination of disability as required by the Social Security Administration. The section will be seeking twenty to twenty-two Minnesota licensed medical doctors and three Minnesota licensed consulting psychologists. All services will be utilized in St. Paul. Range of pay is \$30 to \$45 per hour. Contracts will vary from 8 to 20 hours per week and will be for 1 year (10/1/83 through 9/30/84) or 1 year with an option to renew for a 2nd year. Inquiries should be directed to:

Irene Suddard
Assistant Director, Medical Services
Disability Determination Services Section
Division of Vocational Rehabilitation
Dept. of Economic Security
Suite #200—Metro Square Bldg.
Seventh and Robert Streets
St. Paul, Minnesota 55101
(612) 296-4419

B. Notice of Proposed Contract for Psychometric Testing Services

The Client Services Section is seeking a contractor who would provide psychometric testing to about 4,500 disabled clients. The testing would be provided by the contractor in approximately 50 testing locations throughout the state of Minnesota. The contractor would be required to administer any of seven psychometric tests and provide test scores, together with an interpretation of the test results, within two weeks of the testing date. Inquiries should be directed to:

William Niederloh
Director of Client Services
Division of Vocational Rehabilitation
3rd Floor—Space Center Bldg.
444 Lafayette Road
St. Paul, Minnesota 55101

C. Notice of Request for Qualifications and Request for Proposal for Mobile/Onsite Medical Examination Services

The Social Security Disability Determination Services Section is seeking the services of contractors to provide qualified physicians in certain specialities (e.g. orthopedics, neurology, psychiatry) to travel to various Minnesota cities (e.g. St. Cloud,

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Bemidji, Duluth, Mankato) to perform consultative examinations and requested lab or x-ray studies and to provide written results of these examinations. The division's fee schedule will be used as a guide to determine compensation and fees may not exceed the division's fee maximums. Several contracts will be written. Expenditure for these contracts is not expected to exceed \$140,000. Reimbursement for mileage according to state regulations is provided. The contract period is 10/1/83 through 9/30/84.

Inquiries and request for a copy of the RFO and RFP should be directed to:

Irene Suddard
Assistant Director, Medical Services
Disability Determination Services Section
Division of Vocational Rehabilitation
Dept. of Economic Security
Suite #200—Metro Square Bldg.
Seventh & Robert Sts.
St. Paul, Minnesota 55101
(612) 296-4419

D. Notice of Request for Proposals for Medical Teledictation Service

The Social Security Disability Determination Services Section is seeking the services of contractor to receive by telephone, transcribe, and deliver medical reports dictated by consulting and treating physicians. Three telephone lines and (3) sets of telerecording equipment are to be used exclusively by this section. Dictation recording equipment is to be provided by the contractor. Compensation is based on a 12-14 (elite type) word line. The contract will run 10/1/83 through 9/30/84 with an additional 1 year option to renew and is not expected to exceed 864,000 lines for the period 10/1/83 through 9/30/84 and approximately 900,000-920,000 lines for the period 10/1/84 through 9/30/85.

Inquiries and request for a copy of the RFP should be directed to:

Irene Suddard
Assistant Director, Medical Services
Disability Determination Services Section
Division of Vocational Rehabilitation
Dept. of Economic Security
Suite #200—Metro Square Bldg.
Seventh and Robert Streets
St. Paul, Minnesota 55101
(612) 296-4419

All proposals or expressions of interest must be submitted to the persons named above by 4:30 p.m., August 19, 1983. Contractors will be selected from individuals expressing interest based on qualifications and appropriate experience. Documentation concerning these will be requested, if needed.

City of Duluth

Notice of Availability of Contract for Consultant Services to Help in the Revitalization of Duluth's CBD

The City of Duluth requires the services of a qualified consultant with streetscape experience. The project involves improvements to Superior Street from 5th Ave. W. to approximately the mid block between 3rd and 4th Ave. E. as well as improvements to the avenues from Superior St. to the 2nd Street alley.

Proposed work includes:

- 1) Assist the City in the selection of an appropriate design for street surface, sidewalk surface, lighting system, street furniture, sidewalk vaults, street signage, etc. The firm shall develop and present alternative designs to the City with regard to the above. Such design alternatives shall blend in with the Phase I design work on First Street.
- 2) Perform and document analyses as needed such as vault studies.
- 3) Prepare plans, specifications and estimates and other documentation as needed.

- 4) Perform all inspections and documentation required of the project based on federal highway requirements.
- 5) 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 8, 1983. Technical proposals will be requested from qualifying firms.

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

John Carlson
City Engineer
211 City Hall
Duluth, MN. 55802
(218) 723-3278

City of Duluth

Notice of Availability of Contract for Preliminary Engineering for the Design, Development and Alignment of Joshua Avenue, a Distance of Approximately 1.2 Miles

The City of Duluth requires the services of a qualified consultant with extensive experience in roadway design in environmentally sensitive areas.

Proposed work includes:

- 1) Assist the City in the selection of an appropriate alignment to connect Joshua Avenue from TH53 to Arrowhead Road.
- 2) Perform and document environmental studies and related analyses as needed.
- 3) Prepare project memorandum (project development report and location design study report) as well as environmental impact statement/assessment and other required documents necessary for the City to file for construction funds 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 8, 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 Public Welfare Fergus Falls State Hospital

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

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

Services of qualified physicians to function in the capacity of attending staff physicians, to perform admission and annual history and physical examinations and continuing medical care upon the residents of the Fergus Falls State Hospital in

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accordance with high professional standards and in a manner prescribed by the policies of the Fergus Falls State Hospital and the Minnesota Department of Public Welfare, and at times mutually agreed to by the Consultant and the Medical Director of the Fergus Falls State Hospital. The estimated amount of the contract will not exceed a total of \$120,000.00 for the two-year period.

Responses must be received by August 22, 1983. Send responses to:

Dennis Zilmer
Box 157
Fergus Falls State Hospital
Fergus Falls, Minnesota 56537

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.

Minnesota State Agricultural Society Minnesota State Fair

Meeting Notice

The first scheduled meeting of the Minnesota State Agricultural Society's board of managers during the 1983 State Fair, Aug. 25 through Sept. 5, will be at 9 a.m. Friday Aug. 26 in the Administration Building on the fairgrounds, St. Paul.

Subsequent meetings will be at the call of the society's president as necessary to conduct fair-related business. Dates and time will be available from Jerry Hammer at publicity headquarters in the Service Building on the fairgrounds.

Department of Agriculture Soil and Water Conservation Board

Notice of Change in Meeting Place

The Minnesota Soil and Water Conservation Board has changed the meeting place for the August 9, 1983 meeting from the Department of Agriculture Building, 90 W. Plato Boulevard, St. Paul, MN to the Holiday Inn, Brainerd, MN. The meeting will begin at 8:30 a.m.

The board will meet again at the Department of Agriculture Building on September 13, 1983.

Department of Finance

Notice of Maximum Interest Rate for Municipal Obligations for Month of August

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

Department of Health

Emergency Medical Services Licensure Application

As of August 1, 1983, a complete application was submitted by Advanced Life Support, Inc., Mankato, Minnesota, for an advanced life support transportation service license, with proposed base of operation in the City of Mankato, Blue Earth County.

This notice is given pursuant to Minnesota Statutes 1979, section 144.802, which requires in part that the Commissioner of Health shall publish the notice in the *State Register* at the applicant's expense; and in a newspaper in the municipality in which the service will be provided.

Each municipality, county, community health services agency, and any other interested person wishing to comment on this application may submit comments to the Minnesota Health Systems Agency Six, Box 156, Redwood Falls, MN, 56283, before the close of business on August 31, 1983.

After a public hearing has been held, the Minnesota Health Systems Agency Six shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Minnesota Health Systems Agency Six shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of receipt of the recommendation to the Commissioner of Health, the commissioner shall grant or deny the license to this applicant.

Minnesota Pollution Control Agency

Notice of Intent to Solicit Outside Opinion Regarding Revision of Existing Rule 6 MCAR § 4.0041 (Offset Rule)

Notice is hereby given that the Minnesota Pollution Control Agency (agency) is seeking information from sources outside the agency regarding the revision of the existing rule 6 MCAR § 4.0041, entitled Offset Rule. This rule governs the agency's permit program for the growth or expansion of industry in nonattainment areas. The present issues, both precipitated by federal action, concern (1) the emission facilities that are subject to the requirements of this rule and (2) whether net or gross increases in emissions should be the basis for defining those major new or expanding emission facilities that are subject to the requirements of this rule.

The agency requests information and documents concerning the present issues. Interested persons or groups may submit statements orally or in writing. Statements should be directed to Douglas M. Benson at the address below or at 612/296-7743. Oral statements or inquiries will be accepted during regular business hours either by telephone or in person at the agency office.

Douglas M. Benson
Minnesota Pollution Control Agency
Division of Air Quality
1935 West County Road B-2
Roseville, Minnesota 55113

Statements will be accepted until August 22, 1983. Any written statements will become part of the hearing record in the event amendments to the rule are proposed and public hearings are held.

Dated this 25th day of July, 1983.

Sandra S. Gardebring
Executive Director

Department of Public Welfare Mental Health Bureau

Notice of Intent to Solicit Outside Opinion Concerning Proposed Temporary Rules on Funding for Developmental Achievement Centers and Other Training and Habilitation Services

Notice is hereby given that the Minnesota Department of Public Welfare is considering draft Temporary Rules 12 MCAR §§ 2.03001-2.03020, Funding for Developmental Achievement Centers and other Training and Habilitation Services.

These rules will govern funding for training and habilitation services for mentally retarded persons.

Authority for these rules is contained in Laws of 1983, chapter 312, article 9.

All interested or affected persons or groups are requested to participate.

Statements of information and comment may be made orally or in writing.

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Written statements of information and comment may be addressed to:

John Zakelj
Mental Health Bureau
Department of Public Welfare
Centennial Building
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-4426.

All statements of information and comment must be received by September 19, 1983. Any written material received by the Department shall become part of the rule file submitted to the Attorney General, Administration Division for review for legality.

The proposed rules are expected to be published in November 1983. Upon publication, there will be another period for public comment before the rules are adopted.

Department of Transportation

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

Notice is hereby given that the County Board of Murray County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for a bridge replacement and approaches on Township Road 231 (Bridge L-1599 over Chanarambie Creek).

The request is for a variance from 14 MCAR § 1.5032, H.1.a., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a design speed of 20 miles per hour instead of a required design speed of 30 miles per hour.

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

Dated this 22nd day of July, 1983

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of the City of Hermantown for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the City Council of the City of Hermantown has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for a special resurfacing project on MSAS 103 (Stebner Road) from Maple Grove Road to Morris Thomas Road.

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 35 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, Minnesota 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.

Dated this 22nd day of July, 1983

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of St. Louis County for a Variance from State Aid Standards for Bridge Width

Notice is hereby given that the County Board of St. Louis County has made a written request to the Commissioner of Transportation for a variance from minimum in-place bridge width standards on CSAH 4 from Normanna Road to a point 5.5 miles North.

The request is for a variance from 14 MCAR § 1.5032 H.1.a., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit an in-place bridge to remain at 28-foot width instead of the required 30-foot bridge width in order to reconstruct CSAH 4.

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

Dated this 19th day of July, 1983

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of the City of Faribault for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the City Council of the City of Faribault has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for the reconstruction of MSAS 118 on First Avenue NE from Fifth Street to Seventh Street NE and on Seventh Street NE from First Avenue NE to Central Avenue.

The request is for a variance from 14 MCAR § 1.5032 H.1.a., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a design speed of 27.4 miles per hour instead of the required design speed of 30 miles per hour.

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

Dated this 19th day of July, 1983

Richard P. Braun
Commissioner of Transportation

Errata

At 8 S.R. 111, Monday, July 25, 1983, the following material was erroneously printed as part of 12 MCAR § 3.061 [Temporary] and should be deleted:

UTILITY

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