

84 June 18

STATE REGISTER

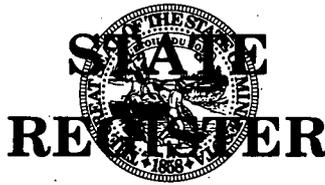
STATE OF MINNESOTA



VOLUME 8, NUMBER 51

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Pages 2677-2756



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 VOLUMES 8 AND 9			
52	Monday June 11	Monday June 18	Monday June 25
1	Monday June 18	Monday June 25	Monday July 2
2	Monday June 25	Friday June 29	Monday July 9
3	Friday June 29	Monday July 9	Monday July 16

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

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

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

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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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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:

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Issues 14-25, inclusive	Issues 40-51, 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 25 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, 25 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 Commerce

Proposed Rules Relating to the Liability of a Prior and Succeeding Group Insurance Carrier

Notice of Intent to Adopt Rules Without a Public Hearing

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

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. 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.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Judith Hale, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 (612) 297-3976. any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, section 60A.082. Additionally, a statement of need and reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and

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 Debbi Lindlief, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

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

Copies of this notice and the proposed rules are available and may be obtained by contacting Debbi Lindlief at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2755.0400 LIABILITY OF PRIOR CARRIER.

The prior carrier remains liable to the extent of its accrued liability and any contractual liability for extension of benefits pursuant to its existing contractual liability at the time of replacement. "Accrued liability" includes, but is not limited to, responsibility for inpatient hospital expenses incurred by a covered individual who is confined in a hospital on the date of replacement. The responsibility on the part of the prior carrier continues until the covered individual is discharged from the hospital or contract maximums have been reached, whichever first occurs.

2755.0500 LIABILITY OF SUCCEEDING CARRIER.

Subpart 1. [Unchanged.]

Subp. 2. Coverage for individuals not eligible under subpart 1. Each individual who is not eligible for coverage in accordance with subpart 1 shall nevertheless be covered by the succeeding carrier in accordance with the following rules, provided that such individual (including an individual who has exercised the option for ~~extension of benefits~~ continuation of coverage pursuant to Minnesota Statutes, sections 62A.148 and 62A.17) was validly covered under the prior plan on the date it was discontinued and such individual is a member of a class of individuals otherwise eligible for coverage under the succeeding carrier's plan.

A. and B. [Unchanged.]

Subp. 3. to 6. [Unchanged.]

Department of Commerce

Proposed Rules Relating to Automobile Insurance Nonrenewals

Notice of Intent to Adopt Rules Without a Public Hearing

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

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. 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.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to William Kyle, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 (612) 296-6944. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

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

Authority for the adoption of these rules is contained in Minnesota Statutes, section 65B.17, subd. 2. Additionally, a statement of need and reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Debbi Lindlief, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

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

Copies of this notice and the proposed rules are available and may be obtained by contacting Debbi Lindlief at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed (all new material)

2770.7500 STATUTORY AUTHORITY.

Parts 2770.7500 to 2770.8500 apply to all companies writing policies of private passenger vehicle insurance. They are adopted under Minnesota Statutes, section 65B.17, subdivision 2.

2770.7600 PURPOSE.

Parts 2770.7500 to 2770.8500 are designed to limit the reasons a policy of private passenger vehicle insurance may not be renewed.

2770.7700 DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 2770.7500 to 2770.8500, the terms defined in this part have the meanings given them.

Subp. 2. Chargeable accident. "Chargeable accident" means an accident in which the insurer nonrenewing the policy makes a payment under bodily injury, property damage, or collision coverages, except under the following conditions:

- A. In a collision loss, where the insurer recovers 80 percent or more of the insurers loss through subrogation.
- B. The automobile was damaged through being struck while being lawfully parked. An automobile rolling from a parked position, or a door opened into traffic causing an accident, is not considered being lawfully parked.
- C. The insured or other driver of the automobile has been paid by the other party, or has a judgment against the other party in the accident.
- D. The accident was one in which the damage was caused by the vehicle being rear-ended by another vehicle, unless the driver of the struck vehicle has been convicted of a moving traffic violation in conjunction with the accident.
- E. The driver of the other vehicle in the accident has been convicted of a moving violation in conjunction with the accident, and the driver of the insured vehicle has not been convicted of a moving violation in conjunction with the accident.
- F. The insured automobile was damaged by contact with a "hit-and-run" vehicle, if this contact is reported to the police, highway patrol, or sheriff within 24 hours after discovery.

"Chargeable accident" also includes any accident for which payment is made under the comprehensive portion of the physical damage coverage of a policy under the following conditions:

- (1) a vehicle falling through the ice of any body of water;
- (2) a single vehicle accident in which the loss would normally be paid under collision coverage but glass breakage is paid under the comprehensive coverage of a policy that does not have collision coverage; or
- (3) payments made under personal injury protection coverage to an insured driver who is involved in a single vehicle accident in which damage to property occurs.

Subp. 3. Commercial vehicle. "Commercial vehicle" is as defined in Minnesota Statutes, section 65B.43, subdivision 12.

Subp. 4. Emergency vehicle. "Emergency vehicle" means an automobile used in response to an emergency if the operator is responding to a call of duty as a paid or volunteer member of any police or fire department, first aid squad, or any law enforcement agency.

Subp. 5. Experience period. "Experience period" means three years from the date of a chargeable accident or incident

referred to in part 2770.7800, subpart 2, to the renewal date of the policy and in the case of a moving traffic violation, three years from the date of occurrence to the renewal date of the policy.

Subp. 6. Hit and run vehicle. "Hit and run vehicle" means a vehicle that leaves the scene of an accident in violation of Minnesota Statutes, section 169.09, subdivisions 1, 2, 4, and 5, or the comparable provisions of the laws of another jurisdiction where the accident occurred.

Subp. 7. Multiline contract. "Multiline contract" means an insurance contract that insures more than one line of insurance under one contract, such as homeowners and automobile coverages within one contract.

Subp. 8. Nonrenewal. "Nonrenewal" includes any nonrenewal notice sent to a named insured informing the named insured that the insurer is terminating or intends to terminate a policy as of a certain date. In order to be valid, the notice must comply with all other applicable laws and rules, including Minnesota Statutes, section 65B.17, and part 2770.8100.

Nonrenewal also includes:

- A. any reduction in the limits of liability of coverage, except a termination or modification of towing coverage;
- B. an increase of a physical damage deductible unless all the existing policies and those policies to be accepted as new business by the insurer in this state will have the same higher deductibles applied; and
- C. the transfer of a named insured from one rating plan to another within the same company, or the transfer of a named insured from one company to another within a group of insurance companies, if the transfer results in a higher premium. This does not apply to a surcharge on an existing policy.

Subp. 9. Points. "Points" means the grading system by which each chargeable accident and violation is assigned a certain number of points to determine if a policy is subject to nonrenewal.

Subp. 10. Policy. "Policy" means a policy of automobile insurance as defined in Minnesota Statutes, section 65.14, subdivision 2. The term also includes motorcycles and commercially rated policies of less than five vehicles.

Subp. 11. Private passenger vehicle. "Private passenger vehicle" is as defined in Minnesota Statutes, section 65B.001, subdivision 3.

Subp. 12. Private passenger vehicle insurance. "Private passenger vehicle insurance" is as defined in Minnesota Statutes, section 65B.001, subdivision 2. The term includes commercially rated policies of less than five vehicles.

Subp. 13. Violations. "Violations" means all moving traffic violations that are recorded by the Department of Public Safety on a household member's motor vehicle record, and violations reported by a similar authority in another state, or reported by the insured, except for equipment violations, driving an unregistered vehicle, driving with an expired driver's license, or driving without a valid driver's license in possession.

2770.7800 REASONS FOR NONRENEWAL.

Subpart 1. Entire policy. The grounds for nonrenewal of an entire policy are limited to one or more of the following reasons:

- A. The reasons stated in Minnesota Statutes, section 65B.15, subdivision 1.
- B. An insured equals or exceeds the relevant number of points specified in part 2770.8000.
- C. Termination of the agency contract, provided that if a named insured is 65 years of age or older, the insurer shall notify the named insured of his or her right to continue the policy in force if the named insured makes the request in writing prior to the termination date. This item does not apply if the insurer assigns the terminated agent's book of business to another agent.
- D. An insurer ceases to write auto insurance in Minnesota. An insurer writing both commercial vehicle insurance and private passenger auto insurance can cease to write either line and continue to offer coverage in the other line.
- E. A commercial auto policy governed by these parts may be nonrenewed if the insurer ceases writing a selected classification and all insureds in the classification are nonrenewed. It may do so by nonrenewing all risks in the classification, and by not rewriting any business in that class for a period of one year after the last risk is nonrenewed.
- F. Failure of the insured to provide necessary underwriting information upon written request from the insurer. Before a nonrenewal notice can be issued under this part, two written requests asking for the information must be sent to the insured stating the reasons why the information is necessary. The second notice must inform the insured of the intent to nonrenew the

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policy if the information is not received. Medical reports and examinations required by the insurer must be paid for by the insurer.

G. An insured has two or more total theft of vehicle claims during the experience period and the vehicles are not recovered.

H. If an insurer encounters a situation in which the insurer believes that the nonrenewal would not be arbitrary and capricious but the situation is not addressed by these parts, the following procedure may be taken:

(1) Notify the commissioner in writing, at least 90 days prior to the policy renewal date, by referring to this part and by stating the reasons for the proposed nonrenewal action.

(2) If the commissioner determines that the situation is not covered by these parts, but could possibly warrant a nonrenewal, the penalties in part 2770.8500 must be waived. The commissioner may decline to render an opinion.

(3) The waiver of penalty decision must be retained by the insurer. A copy of the waiver of penalty decision must be returned to the commissioner by the insurer with its response to a written complaint made by the insured.

(4) The commissioner's decision regarding waiver of penalties will have no bearing on the final decision as to the approval or disapproval of the nonrenewal action.

(5) There is no precedential value in the commissioner's action under this part and each request must be judged on individual considerations.

Subp. 2. Physical damage portion of policy. The grounds for nonrenewal of the physical damage portion of a policy are limited to the following:

A. If three or more comprehensive claim payments have been made during the experience period, or two or more comprehensive payments have been made during the most recent 12-month period, a policy that does not have a comprehensive deductible may be changed to a deductible not greater than \$100, or a policy that has a comprehensive deductible may be increased to the next highest deductible level offered by the insurer or up to \$100, whichever is greater. Only one increase of deductibles is allowed during the experience period unless additional payments are made after the increase of a deductible. A change in a deductible requires a nonrenewal notice.

B. The physical damage portion of a policy may be nonrenewed if there has been a total of three payments for a single vehicle insured or four payments for a multiple vehicle insured during the experience period for any combination of the following:

(1) comprehensive payments, except towing and those caused by natural causes;

(2) chargeable accident collision payments; or

(3) collision payments due to hit and run vehicles.

2770.7900 SCHEDULE OF POINTS FOR VIOLATION OR CHARGEABLE ACCIDENT.

Subpart 1. In general. Subparts 2 to 7 show the points assigned to each violation and chargeable accident during the experience period.

Subp. 2. Four points. Four points will be assigned for each of the following:

A. leaving the scene of an accident without stopping to report;

B. a felony involving the use of a motor vehicle, including manslaughter, criminal negligence, or assault originating out of the use of a motor vehicle;

C. theft of, or unlawful taking of, a motor vehicle;

D. any violation that results in the suspension or revocation of an operators' license, such as an implied consent or a DWI; and

E. unlawful driving after suspension or revocation of an operators' license.

Subp. 3. Two and one-half points. Two and one-half points will be assigned for reckless driving.

Subp. 4. One and one-half points. One and one-half points will be assigned for careless driving.

Subp. 5. One point. One point will be assigned for:

A. a chargeable accident where total payment exceeds \$500, not including payments made under uninsured motorist, underinsured motorist coverage, or personal injury protection, unless defined as a chargeable accident; and

B. an open bottle violation.

Subp. 6. Three-fourths point. Three-fourths of a point will be assigned for the second and each subsequent violation for speeding during the experience period per individual operator.

Subp. 7. One-half point. One-half point will be assigned for:

- A. the first violation for speeding during the experience period per individual operator;
- B. a chargeable accident where total payment is \$500 or less, not including payments made under uninsured motorist, underinsured motorist coverage, or personal injury protection, unless defined as a chargeable accident;
- C. allow open bottle violation; and
- D. all other violations.

2770.8000 POINTS FOR NONRENEWAL.

Subpart 1. Schedule. The following schedule shows the number of points that must be accumulated before a policy can be nonrenewed:

Number of household vehicles insured by the same insurer	Number of Points required to nonrenew
1	2
2	3
3	3½
4 or more	4

Subp. 2. Exceptions. If one operator accumulates three points or more, a policy or policies may be nonrenewed regardless of the number of insured vehicles in the household. If at the time the nonrenewal was sent, a nonspouse household member owns an automobile and a policy of his or her own, then that household member's driving record cannot be used to determine a basis for nonrenewal of policies of other household members, except for violations in the four-point category.

Accidents or violations occurring while operating a commercial vehicle or an emergency vehicle cannot be used to accumulate points for nonrenewing a private passenger vehicle policy, except for violations in the four-point category.

2770.8100 NONRENEWAL NOTICES.

A nonrenewal notice must be on a form approved by the Department of Commerce and it must contain on the front of the notice specific reasons for the nonrenewal and the information required by Minnesota Statutes, section 65B.19 regarding the right of complaint and the availability of the Minnesota Automobile Insurance Plan. The make and year of the vehicle being nonrenewed must be shown on the notice. The specific reason given for the nonrenewal must include the following information:

A. in the case of violations: the name of the driver, the type of violation, the date of the violation, and the point value of each violation;

B. in the case of chargeable accidents: the name of the driver, whether the payment is in excess of or under \$500, the date of the accident, and the point value of each accident; and

C. in the case of physical damage nonrenewals under part 2770.7800, subpart 2, items A and B: the date of the loss and the type of the loss.

The printing of these items on the back of the notice or on a separate sheet will not comply with this part.

The named insured cannot waive his or her right to receive a nonrenewal notice unless advised fully, in writing, as to his or her rights under the nonrenewal statutes and these parts.

2770.8200 RECORD KEEPING.

Each insurance company shall keep a register of all cancellations, as defined in Minnesota Statutes, section 65B.15, and nonrenewals, as defined in Minnesota Statutes, section 65B.17 and part 2770.7800, subpart 1, item B. This register must be available to the commissioner of commerce, or his designee, at any time. The termination register must be retained for three years and need not include terminations for nonpayment of premium.

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2770.8300 AUTOMATIC COVERAGE ON NEWLY ACQUIRED AND REPLACEMENT VEHICLES.

Parts 2770.7500 to 2770.8500 also apply to newly acquired vehicles and replacement vehicles which qualify for the automatic coverage provisions of a policy.

2770.8400 NONRENEWAL OF MULTILINE CONTRACTS.

Nothing in parts 2770.7500 to 2770.8500 prohibits an insurance company from nonrenewing a multiline insurance contract. However, if these parts prevent nonrenewal of the automobile insurance portion of the contract, then the insurance company shall issue to the named insured a policy of automobile insurance providing coverage as included in the multiline contract.

2770.8500 PENALTIES.

Subpart 1. Generally. Failure to comply with parts 2770.7500 to 2770.8500 subjects the insurers to the following penalties during each calendar year period:

- A. first violation, \$100;
- B. second violation, \$300; and
- C. third and subsequent violation, \$500.

Monetary penalties must be waived if the commissioner determines that the nonrenewal notice was based on a good faith judgment supported by evidence that was in the possession of the insurer at the time of the sending of the nonrenewal notice, or if the nonrenewal was subject to the waiver of penalty provisions in part 2770.7800, subpart 1, item H.

Subp. 2. Disapproval of commissioner. Any nonrenewal of a policy in violation of parts 2770.7500 to 2770.8500 must be disapproved by the commissioner of commerce under Minnesota Statutes, section 65B.21.

Subp. 3. Additional penalties. Nothing contained in this part prohibits the commissioner of commerce from applying additional penalties or remedies as may be imposed under Minnesota Statutes, chapter 72A.

Subp. 4. Application and effective date. Monetary penalties become effective for any nonrenewal in violation of parts 2770.7500 to 2770.8500 sent on or after January 1, 1984.

EFFECTIVE DATE. Parts 2770.7500 to 2770.8500 supercede 4 MCAR §§ 1.9081-1.90892 [Temporary] from the effective date of parts 2770.7500 to 2770.8500.

Board of Dentistry

Proposed Rule Amending Fees of the Board of Dentistry

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Dentistry (hereinafter "Board") proposes to amend Minn. Rule p. 3100.2000 (formerly 7 MCAR § 3.005). A copy of the proposed amendments is attached to his notice.

The Board has determined that these proposed amendments will be noncontroversial in nature. Therefore, the Board intends to utilize the provisions of Minn. Stat. §§ 14.21 to 14.28 and adopt the rule changes without a public hearing.

THE PUBLIC IS HEREBY ADVISED that:

1. They have 30 days in which to submit comment in support of or in opposition to the proposed amendment, and comment is encouraged;
2. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed;
3. If twenty-five or more persons make a written request for a public hearing within the 30-day comment period, a public hearing will be held;
4. All comments and any written requests for a public hearing shall be submitted to Dale J. Forseth, Executive Secretary, Minnesota Board of Dentistry, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414;
5. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed;
6. The proposed amendments may be modified if the modifications are supported by the data and views submitted and do not result in a substantial change in the proposed language;

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7. Under the procedure for adopting non-controversial rules, the Board must submit any action on its rules to the Attorney General for review of the form and legality of the rule change. If a hearing is not required, notice of the date of submission of the proposed rule to the attorney general for review will be mailed to any person requesting to receive the notice. Requests to receive notice must be submitted to Mr. Forseth at the above address.

8. Authority to amend Minn. Rule p. 3100.2000 is contained in Minn. Stat. §§ 150A.04, subd. 5, 150A.06, and 214.06, subd. 1. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments has been prepared and is now available. Anyone wishing to receive a copy of this document may contact Mr. Forseth at the above address;

9. The approval of the Commissioner of Finance for amendments of rules relating to fees is required by Minn. Stat. § 214.06, subd. 1. A document entitled "Commissioner of Finance Approval" in which the Commissioner has approved the proposed amendments to Minn. Rules p. 3100.2000 is available. Anyone wishing to receive a copy of this document may contact Mr. Forseth at the above address.

10. If twenty-five or more persons request a public hearing on this matter, notice of any such hearing will be published in the *State Register*, and the Board will then proceed pursuant to Minn. Stat. §§ 14.13-14.20.

11. Any rule change made pursuant to this proceeding shall be effective five days after publication in the *State Register* of notice of the adoption of the change.

May 25, 1984

Dale J. Forseth
Executive Secretary
Board of Dentistry

Rule as Proposed

3100.2000 FEES.

Subpart 1. Application fees. Each applicant for licensure as a dentist or dental hygienist or for registration as a registered dental assistant shall submit with his license or registration application a fee in the following amounts:

- A. dental applicant, \$70;
- B. dental hygienist ~~applicant~~ application, \$25; and
- C. dental assistant applicant, \$15.

Subp. 2. Annual license or registration fees. Each dentist, dental hygienist, and registered dental assistant shall submit with his annual license or registration renewal application a fee as established by the board not to exceed the following amounts:

- A. dentist, ~~\$38~~ \$42;
- B. dental hygienist, ~~\$15~~ \$17; and
- C. registered dental assistant, ~~\$10~~ \$11.

Subp. 3. Licensure by credentials. Each applicant for licensure as a dentist or dental hygienist by credentials pursuant to Minnesota Statutes, section ~~150A.16~~ 150A.06, subdivision 4 (~~reciprocity~~) of the act and ~~parts 3100.3300, subpart 2 and 3100.3400, subpart 2~~ part 3100.1406 shall submit with his license application a fee in the following amounts:

- A. dentist, \$250; and
- B. dental hygienist, \$75.

Subp. 4. Annual license or registration late fee. Applications for renewal of any license or registration ~~must either be reviewed by the board or postmarked no later than January 1 of each calendar year. Applications received subsequent to that date after the time specified in part 3100.1700~~ are subject to a late fee equal to 50 percent of the annual renewal fee.

Subp. 5. Duplicate license or registration fee. Each licensee or registrant shall submit with his request for issuance of a duplicate of his original license or registration or of his annual renewal thereof a fee in the ~~amount of~~ following amounts.

- A. original dentist or dental hygiene license, \$8; and
- B. initial and renewal registration certificates and license renewal certificates, \$5.

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Subp. 6. Reinstatement fee. No dentist, dental hygienist, or registered dental assistant whose license or registration has been suspended or revoked shall have his license or registration reinstated or a new license or registration issued until he has submitted to the board a fee in the following amount:

- A. dentist, \$70;
- B. dental hygienist, \$25; and
- C. registered dental assistant, \$15.

Subp. 7. Application for permission to take dental X rays. A person applying for permission to take dental X rays pursuant to part 3100.8400, subpart 2, shall submit with his application a fee in the amount of \$10.

Subp. 8. Application for approval as sponsor of CDE courses. A person applying for approval as a sponsor of CDE programs pursuant to part 3100.4200, subpart 2, shall submit with his application a fee in the amount of \$25.

Subp. 9. Refunds. No fee shall be refunded for any reason except in those cases where the applicant for licensure or registration is found to be ineligible to take the examination.

Department of Health

Proposed Rules Governing Communicable Diseases; Duties of the Commissioner and Local Boards of Health

Notice of Intent to Adopt Rules and to Repeal Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Commissioner of Health (hereinafter "Commissioner") proposes to adopt the following rules: parts 4605.7000; 4605.7010; 4605.7020; 4605.7030; 4605.7040; 4605.7050; 4605.7060; 4605.7070; 4605.7080; 4605.7090; 4605.7100; 4605.7200; 4605.7300; 4605.7400; 4605.7500; 4605.7600; 4605.7700; 4605.7800; 4735.0100; 4735.0200; 4735.0300.

NOTICE IS ALSO GIVEN that the Commissioner proposes to repeal the following rules: parts 4605.0200; 4605.0300; 4605.0400; 4605.0500; 4605.0600; 4605.0700; 4605.0800; 4605.0900; 4605.1000; 4605.1100; 4605.1200; 4605.1300; 4605.1400; 4605.1500; 4605.1600; 4605.1700; 4605.1800; 4605.1900; 4605.2000; 4605.2100; 4605.2200; 4605.2300; 4605.2400; 4605.2500; 4605.2600; 4605.2700; 4605.2800; 4605.2900; 4605.3000, subps. (1), (2) and (4); 4605.3400; 4605.3500; 4605.3600; 4605.3700; 4605.3800; 4605.3900; 4605.4000; 4605.4100; 4605.4200; 4605.4300; 4605.4400; 4605.4500; 4605.4600; 4605.4700; 4605.4800; 4605.4900; 4605.5000; 4605.5100; 4735.0010; 4735.0020. A copy of the proposed rules and the proposed repealer are attached to this notice.

The Commissioner has determined that the proposed rules and repealer will be noncontroversial in nature and has elected to follow the provisions of Minn. Stat. §§ 14.21-1428 (1982). Sections 14.21-1428 provide for an expedited process for the adoption of noncontroverted administrative rule changes without the holding of a public hearing.

THE PUBLIC IS HEREBY ADVISED that:

1. There is a 30-day period in which to submit comment in support of or in opposition to the proposed rules and repealer, and comment is encouraged;
2. Each comment should identify the portion of the proposed rule or repealer addressed, the reason for the comment, and any change proposed;
3. If twenty-five or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held;
4. All comments and any written requests for a public hearing shall be submitted to John Washburn, Chief, Epidemiologic Field Services Section, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440;
5. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule or repealer addressed, the reason for the request, and any change proposed;
6. The proposed rules and repealer may be modified if modifications are supported by the data and views submitted and do not result in a substantial change in the proposed language;
7. Under this expedited procedure, the department must submit any action on its rules to the attorney general for review

of the form and legality of the rule change. If a hearing is not required, notice of the date of submission of the proposed rules to the attorney general for review will be mailed to any person who requests to receive the notice. Requests to receive notice must be submitted to Mr. Washburn at the above address;

8. Authority to amend Minn. Rules ch. 4605 and pp. 4735.0010 and 4735.0020 is contained in Minn. Stat. §§ 144.05, 144.0742, and 144.12 (1982). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and the repealer has been prepared and is now available. Anyone wishing to receive a copy of this document may contact Mr. Washburn at the above address.

9. If twenty-five or more persons request a public hearing on this matter, notice of any such hearing will be published in the *State Register*;

10. Any rule change made pursuant to this proceeding shall be effective five days after publication in the *State Register* of notice of the adoption of the change.

June 4, 1984

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed (all new material)

4605.7000 DEFINITIONS.

Subpart 1. **Case.** "Case" means a person having a particular disease diagnosed by a physician.

Subp. 2. **Carrier.** "Carrier" means a person identified as harboring a specific infectious agent in the absence of discernible clinical disease and who serves as a potential source of infection.

Subp. 3. **Commissioner.** "Commissioner" means the state commissioner of health or authorized officers, employees, or agents of the Minnesota Department of Health.

Subp. 4. **Infection control practitioner.** "Infection control practitioner" means any person designated by a hospital, nursing home, medical clinic, or other health care facility as having responsibility for prevention, detection, reporting, and control of infections within the institution.

Subp. 5. **Isolation.** "Isolation" means the separation, for the period of communicability, of an infected person from others in places and under the condition as to prevent or limit the direct or indirect transmission of the infectious agent to those who are susceptible or may spread the agent to others.

Subp. 6. **Local board of health.** "Local board of health" means authorized administrators, officers, agents, or employees of county, multi-county, or city board of health organized under Minnesota Statutes, sections 145.911 to 145.921.

Subp. 7. **Medical laboratory.** "Medical laboratory" means any facility which receives, forwards, or analyzes specimens of original material from the human body, and reports the results to physicians who use the data for purposes of patient care.

Subp. 8. **Physician.** "Physician" means any person who is licensed by the Minnesota Board of Medical Examiners to practice medicine.

Subp. 9. **Suspected case.** "Suspected case" means a person having a condition or illness in which the signs and symptoms resemble those of a recognized disease.

Subp. 10. **Veterinarian.** "Veterinarian" means any person who is licensed by the Minnesota Board of Veterinary Medicine to practice veterinary medicine.

Subp. 11. **Public health hazard.** "Public health hazard" means the presence of a disease organism or condition in the environment which endangers the health of a specified population.

4605.7010 PURPOSE.

The purpose of this chapter is to establish a process and assign responsibility for reporting, investigating, and controlling disease.

4605.7020 SCOPE.

This chapter applies generally to cases, suspect cases, and deaths from communicable diseases and syndromes, reporting of disease, and disease control.

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4605.7030 PERSONS REQUIRED TO REPORT DISEASE.

Subpart 1. Physicians. When attending a case, suspected case, carrier, or death from any of the diseases in part 4605.7040, the physician shall report within one working day to the commissioner, unless previously reported, the information outlined in part 4605.7090.

Subp. 2. Health care facilities. Hospitals, nursing homes, medical clinics, or other health care facilities shall designate that the individual physicians shall report as provided in subpart 1; or shall designate an infection control practitioner or other person as responsible to report to the commissioner, within one working day of knowledge of a case, suspected case, carrier, or death from any of the diseases in part 4605.7040, the information outlined in part 4605.7090.

Subp. 3. Medical laboratories. Medical laboratories which receive specimens of original material from patients shall, within one working day of completion, provide to the commissioner the results of microbiologic cultures, examinations, and immunologic assays for the presence of antigens and antibodies which are indicative of the presence of any of the diseases in part 4605.7040 and as much of the following information as is known: disease (test, culture, or examination); source of specimen (i.e., blood, stool, type of tissue); name and address of the medical laboratory; date of test, culture, or examination; patient's name or I.D. number, birthdate, and sex; and the name, address, and telephone number of the attending physician.

If necessary, the commissioner shall contact the attending physician who shall be responsible for determining whether a case, suspected case, carrier, or death due to a disease in part 4605.7040 is present.

Subp. 4. Comprehensive reports. Any institution, facility, or clinic, staffed by physicians and having medical laboratories which are required to report, as in subparts 1, 2, and 3, may, upon written notification of the commissioner, designate a single person or group of persons to report cases, suspected cases, carriers, deaths, or results of medical laboratory cultures, examinations, and assays for any of the diseases listed in part 4605.7040 to the commissioner.

Subp. 5. Veterinarians and veterinary medical laboratories. The commissioner of health shall, under the following circumstances, request certain reports of clinical diagnosis of disease in animals and reports of laboratory tests on animals:

- A. The disease is common to both animals and humans.
- B. The disease may be transmitted directly or indirectly to and between humans and animals.
- C. The persons who are afflicted with the disease are likely to suffer complications, disability, or death as a result.
- D. Investigation based upon veterinarian and veterinary medical laboratory reports will assist in the prevention and control of disease among humans.

4605.7040 DISEASE AND REPORTS.

Cases, suspected cases, carriers, and deaths due to the following diseases and disease agents shall be reported. The diseases followed by an asterisk shall be reported immediately by telephone to the commissioner.

- A. Acquired Immune Deficiency Syndrome (AIDS)
- B. Amebiasis (*Entamoeba histolytica*)
- C. Anthrax* (*Bacillus anthracis*)
- D. Babesiosis (*Babesia* sp.)
- E. Blastomycosis (*Blastomyces dermatitidis*)
- F. Botulism* (*Clostridium botulinum*)
- G. Brucellosis (*Brucella* sp.)
- H. Campylobacteriosis (*Campylobacter* sp.)
- I. Chancroid (*Haemophilus ducreyi*)
- J. *Chlamydia trachomatis* infections (nonspecific urethritis, cervicitis, salpingitis, neonatal conjunctivitis, pneumonia, and lymphogranuloma venereum)
- K. Cholera* (*Vibrio cholerae*)
- L. Diphtheria (*Corynebacterium diphtheriae*)
- M. *Diphyllobothrium latum* infection
- N. Encephalitis (caused by infectious agents)
- O. Echinococcosis (*Echinococcus* sp.)
- P. Giardiasis (*Giardia lamblia*)

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Q. Gonorrhea infections (including: Gonococcal salpingitis, ophthalmia neonatorum, Penicillin resistant *Neisseria gonorrhoea* infections)

R. *Haemophilus influenzae* disease (all invasive disease including epiglottitis, cellulitis, bacteremia, and meningitis)

S. Hepatitis (all viral types)

T. *Herpes simplex* types I and II infections (neonatal, less than 30 days of age, disease only)

U. Histoplasmosis (*Histoplasma capsulatum*)

V. Influenza (unusual case incidence or laboratory confirmed cases)

W. Lead (poisoning and undue absorption)

X. Legionellosis (*Legionella* sp.)

Y. Leprosy (*Mycobacterium leprae*)

Z. Leptospirosis (*Leptospira interrogans*)

AA. Lyme Disease (*Borellia burgdorferi*)

BB. Malaria (*Plasmodium vivax*, *P. malariae*, or *P. falciparum*)

CC. Measles (Rubeola)*

DD. Meningitis (caused by all types of bacterial, viral, or fungal agents)

EE. Meningococemia (*Neisseria meningitidis*)

FF. Mumps*

GG. Mycobacterioses (symptomatic cases only; exclusive of tuberculosis and leprosy)

HH. Pertussis (*Bordetella pertussis*)

II. Plague (*Yersinia pestis*)

JJ. Poliomyelitis*

KK. Psittacosis (*Chlamydia psittaci*)

LL. Q Fever (*Coxiella burnetii*)

MM. Rabies (animal and human cases and suspects)*

NN. Reye Syndrome

OO. Rheumatic Fever (cases meeting the Jones Criteria only)

PP. Rubella and Congenital Rubella Syndrome

QQ. Rocky Mountain Spotted Fever (*Rickettsia rickettsii*, *R. canada*)

RR. Salmonellosis, including typhoid (*Salmonella* sp.)

SS. Shigellosis (*Shigella* sp.)

TT. Staphylococcal disease (*Staphylococcus aureus* outbreaks only)

UU. Streptococcal disease (only *Streptococcus agalactiae* (Group B) neonatal, less than 30 days of age, disease)

VV. Syphilis* (*Treponema pallidum*)

WW. Tetanus (*Clostridium tetani*)

XX. Toxic Shock Syndrome

YY. Trichinosis (*Trichinella spiralis*)

ZZ. Tuberculosis (*Mycobacterium tuberculosis*)

AAA. Tularemia (*Francisella tularensis*)

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BBB. Typhus (*Rickettsia prowazeki*)

CCC. Yellow Fever

DDD. Yersiniosis (*Yersinia* sp.)

4605.7050 UNUSUAL CASE INCIDENCE.

Any pattern of cases, suspected cases, or increased incidence of any illness beyond the expected number of cases in a given period, which may indicate an outbreak, epidemic, or related public health hazard, including but not limited to suspected or confirmed outbreaks of food or waterborne disease, epidemic viral gastroenteritis, and any disease known or presumed to be transmitted by transfusion of blood or blood products, shall be reported immediately by telephone, by the person having knowledge, to the commissioner.

4605.7060 CASES, SUSPECTED CASES, CARRIERS, AND DEATHS DUE TO DISEASE ACQUIRED OUTSIDE THE STATE.

Cases, suspected cases, and deaths due to any viral, bacterial, fungal, or parasitic disease that a physician thinks have been acquired outside the state, and which are considered rare or unusual in Minnesota, or a public health problem in the area of presumed acquisition, shall be reported to the commissioner.

4605.7070 OTHER REPORTS.

It shall be the duty of any person in charge of any institution, school, child care facility or camp, or any other person having knowledge of any disease which may threaten the public health, to report immediately the name and address of any persons suspected of having disease to the commissioner.

4605.7080 NEW DISEASES AND SYNDROMES.

The commissioner shall, by public notice, request reporting of specified diseases when all of the following circumstances exist:

- A. There is evidence that epidemiologic investigation based upon reports of cases, suspect cases, and deaths due to the disease or syndrome will assist in further understanding of the disease.
- B. Persons afflicted with the disease or syndrome are likely to suffer complications, disability, or death as a result.
- C. A case-oriented public health response will be helpful for control.
- D. There is a specific, planned mechanism for surveillance of the disease or syndrome.
- E. Reports of individual cases of the disease will serve as indicators of possible widespread contamination or increased risk which may be preventable.

4605.7090 DISEASE REPORT INFORMATION.

Reports that are required in part 4605.7030 shall contain as much of the following information as is known:

- A. disease (whether a case, suspected case, or death);
- B. date of first symptoms;
- C. patient:
 - (1) name;
 - (2) birthdate;
 - (3) ethnic or racial origin;
 - (4) residence address, city, and county;
 - (5) phone number; and
 - (6) place of work, school, or daycare;
- D. date of report;
- E. physician name, address, and phone number;
- F. name of hospital (if any);
- G. name of person reporting (if not physician);
- H. diagnostic laboratory findings and dates of test;
- I. name and locating information of contacts (if any); and
- J. other information pertinent to the case.

4605.7100 REPORTS TO STATE AND LOCAL BOARDS OF HEALTH.

Upon receipt of information or other knowledge of a case, suspected case, or death or any disease or report required in part 4605.7030, the local board of health shall immediately forward same to the commissioner.

4605.7200 RECORDS OF DISEASE.

The commissioner shall maintain records of reports of cases, suspected cases, carriers, and deaths for the disease reports required in this section and shall prepare statewide summary information which shall be made available for each local board of health on request.

4605.7300 COPIES OF DISEASE REPORTS.

Local boards of health operating under agreements in part 4735.0200, subpart 2, shall be forwarded copies of all disease reports and information received by the commissioner which pertain to the jurisdiction and biennial agreement between the commissioner and the local board of health.

4605.7400 PREVENTION OF DISEASE SPREAD.

Subpart 1. Isolation. The physician attending a case, suspected case, or carrier (or in the absence of a physician, the commissioner) shall make certain that isolation precautions are taken to prevent spread of disease to others.

Subp. 2. Report of noncompliance. Physicians shall report immediately to the commissioner the name, address, and other pertinent information for all cases, suspected cases, and carriers who refuse to comply with prescribed isolation precautions. The commissioner shall then seek injunctive relief under Minnesota Statutes, section 145.075, if the person represents a public health hazard.

4605.7500 DISEASE INVESTIGATIONS.

The commissioner shall investigate the occurrence of cases, suspected cases, or carriers of reportable diseases or unusual disease occurrences in a public or private place for the purpose of verification of the existence of disease, ascertaining the source of the disease causing agent, identifying unreported cases, locating contacts of cases, identifying those at risk of disease, determining necessary control measures, and informing the public if necessary.

4605.7600 RABIES

Subpart 1. Treatment of exposed person. When any person has been bitten or is otherwise exposed to the rabies virus by an animal known or suspected to be rabid, a physician shall determine as soon as practical the advisability of the person receiving preventive treatment.

Subp. 2. Dogs and cats. The commissioner shall ensure that dogs and cats which bite or otherwise expose a person to rabies virus are confined and observed for signs suggestive of rabies for a period of ten days or are sacrificed, and the tissues of the brain examined for evidence of infection by the rabies virus. If at any time during the ten-day observation the veterinarian determines that the animal shows signs suggestive of rabies or the animal dies, the commissioner shall have the brain tissue examined for evidence of infection by the rabies virus.

Subp. 3. Test mammals. The following mammals are suspected of being rabid at any time following a bite or other exposure of a person to the rabies virus. The commissioner shall have the animal sacrificed immediately and the tissues of the brain tested for evidence of infection by the rabies virus:

- A. bat;
- B. badger;
- C. bear;
- D. beaver;
- E. bobcat;
- F. civet cat;
- G. ferret;
- H. fox;

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- I. mink;
- J. muskrat;
- K. ocelot;
- L. opossum;
- M. raccoon;
- N. skunk;
- O. weasel;
- P. woodchuck; or
- Q. wolf.

Subp. 4. Mammal examined. The following mammals are suspected of being rabid at any time following a bite or other exposure of a person to the rabies virus. The commissioner shall have the animal examined by a veterinarian who shall advise the commissioner and the animal's owner as to the health of the animal and whether the animal shall be sacrificed and the tissues of the brain examined for evidence of infection by the rabies virus:

- A. bovine;
- B. goat;
- C. horse;
- D. monkey;
- E. sheep; or
- F. swine.

Subp. 5. Commissioner determination of mammal testing. The commissioner shall determine if any mammal not otherwise addressed in these rules which bites or otherwise exposes a human is possibly rabid, and whether to have the animal sacrificed and the tissues of the brain examined for evidence of infection by the rabies virus.

4605.7700 VENEREAL DISEASE.

Subpart 1. Special reports. The following special reports shall be given by physicians to the commissioner:

A. Notwithstanding any previous report, physicians who have reason to believe that a person having syphilis, gonorrhea, or chancroid has not completed therapy shall notify the commissioner immediately of that person's name, address, and other pertinent information.

B. Notwithstanding any previous report, physicians who treat persons infected with syphilis, gonorrhea, or chancroid shall ensure that the names and addresses of sexual contacts who may also be infected are reported to the commissioner.

C. Notwithstanding any previous report, physicians shall immediately report to the commissioner the name, address, and essential facts of the case for any person known or suspected of being infected with syphilis, gonorrhea, or chancroid who refuses examination or treatment.

4605.7800 HEALTH EDUCATION.

Health care providers working with patients having syphilis, gonorrhea, or chancroid shall instruct the patients how to prevent the spread of venereal disease, and inform them of the importance of complying with treatment instructions and the necessity of having all relevant sexual contacts promptly examined for the specific venereal disease.

4735.0100 DEFINITIONS.

Subpart 1. Commissioner. "Commissioner" means the state commissioner of health or authorized officers, employees, or agents of the Minnesota Department of Health.

Subp. 2. Community health services plan. "Community health services plan" means plans and plan revisions developed under Minnesota Statutes, section 145.92.

Subp. 3. Local board of health. "Local board of health" means the duly authorized administrators, officers, agents, or employees of the county, multi-county, or city board of health organized within the provisions of Minnesota Statutes, sections 145.911 to 145.921.

Subp. 4. Public health emergency. "Public health emergency" means an unanticipated and temporary condition threatening the health of a specific population such that the resources of one or more local boards of health cannot reasonably be considered adequate to respond to the emergency needs of the affected population.

Subp. 5. Public health hazard. "Public health hazard" means the presence of a disease organism or condition in the environment which endangers the health of a specified population.

4735.0200 DUTIES OF COMMISSIONER.

Subpart 1. General duties. The state commissioner of health or an authorized officer shall be responsible for the collection and review of disease reports, epidemiologic investigations, and control of disease in all areas of the state.

Subp. 2. Agreements. The commissioner may enter into written agreements with local boards of health for the purposes of specifying shared responsibilities for the collection of data and information described in parts 4605.7000 to 4605.7800. The agreement must be made a part of the biennial community health services plan. The agreement shall include but not be limited to:

- A. requirements pertaining to data to be collected and disease investigations to be conducted;
- B. minimum personnel requirements;
- C. duties of the commissioner regarding the provision of technical or other assistance to fulfill the agreement;
- D. specification of means by which the local board of health shall coordinate data collection and other duties of the agreement with related activities of the commissioner or other local boards of health;
- E. criteria by which the commissioner will determine that the duties and responsibilities agreed upon are met;
- F. procedures for renewal of the agreement; and
- G. grounds for termination.

Subp. 3. Notice to local board of health. The commissioner shall bring to the attention of the local board of health any conditions within the jurisdiction of the local board of health which represent the potential for a public health hazard.

Subp. 4. Assistance to local board of health. The commissioner shall provide technical assistance and personnel as he or she determines are available and necessary to answer the requests of the local board of health for assistance in the investigation and control of disease.

Subp. 5. Public health emergency. In the event of a public health emergency, the commissioner may, after giving reasonable notice to the local board of health, suspend all or certain specified terms of the agreement for a period of time sufficient to respond to the public health emergency.

4735.0300 DUTIES OF LOCAL BOARD OF HEALTH.

Subpart 1. Local board of health request. The local board of health shall, when the public health hazard exceeds the capacity of the local board of health to respond, request assistance from the commissioner for the investigation and control of disease.

Subp. 2. Duty to report health hazards. The local board of health shall bring to the attention of the commissioner any conditions which represent the potential for a public health hazard.

RENUMBER. Renumber each part specified in Column A with the part set forth in Column B.

Column A	Column B
4605.3000	4720.3910
4605.3100	4605.7900
4605.3300	4605.8000
4605.5200	4605.7701
4605.5300	4605.7702
4605.5400	4605.7703
4605.5500	4605.7704
4605.5600	4605.7705
4605.5700	4605.7706
4605.5800	4605.7707
4605.5900	4605.7708
4605.6000	4605.7709
4605.6100	4605.7710

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4605.6200	4605.7711
4605.6300	4605.7712
4605.6400	4605.7713
4605.6500	4605.7714
4605.6600	4605.7715
4605.6700	4605.7716

REPEALER: Minnesota Rules, parts 4605.0200; 4605.0300; 4605.0400; 4605.0500; 4605.0600; 4605.0700; 4605.0800; 4605.0900; 4605.1000; 4605.1100; 4605.1200; 4605.1300; 4605.1400; 4605.1500; 4605.1600; 4605.1700; 4605.1800; 4605.1900; 4605.2000; 4605.2100; 4605.2200; 4605.2300; 4605.2400; 4605.2500; 4605.2600; 4605.2700; 4605.2800; 4605.2900; 4605.3200; 4605.3400; 4605.3500; 4605.3600; 4605.3700; 4605.3800; 4605.3900; 4605.4000; 4605.4100; 4605.4200; 4605.4300; 4605.4400; 4605.4500; 4605.4600; 4605.4700; 4605.4800; 4605.4900; 4605.5000; 4605.5100; 4735.0010; 4735.0020, are repealed.

Pollution Control Agency Emergency Amendments to Rules as Proposed and Emergency Rules as Proposed Governing Water Pollution Control Fund and Federal Grants

Notice of Intent to Adopt Emergency Rules and Request for Public Comment

Notice is hereby given that the Minnesota Pollution Control Agency is proposing to adopt emergency rules for the administration of the construction grant programs for municipal sewage treatment projects. The agency is authorized by Minn. Law 1984, Ch. 597, § 44 to adopt emergency rules for the administration of federal and state grant programs, including the new state independent state grant program created by chapter 597.

All interested persons have 25 days from the day of publication of this notice in the *State Register* to submit written comments to the agency on the proposed emergency rules. With publication of this notice in the June 18, 1984, *State Register*, written comments must be received by the agency by no later than 4:30 p.m. on July 13, 1984. Written comments should be sent to:

Duane Anderson
Chief, Grants Section
Division of Water Quality
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7205

Please be advised that the proposed emergency rules may be modified as a result of the comments received. Any written material received by the agency will become part of the record in this matter.

The proposed emergency rules, with any modifications adopted by the agency, will be submitted to the Attorney General for review as to form and legality after close of the comment period. Persons wishing to be informed of the date of submission of the proposed emergency rules to the Attorney General should notify the agency of such desire at the address given above. The Attorney General has ten working days to approve or disapprove the rule.

The emergency rules will be effective five working days following approval of the rules by the Attorney General. It is the agency's intent to keep the rules in effect for a period of 180 days. The agency may extend the effective period for up to an additional 180 days upon publication of a separate notice to such effect.

A free copy of the proposed emergency rules is available by contacting Mr. Anderson at the above address.

Thomas J. Kalitowski
Executive Director
Pollution Control Agency

Emergency Amendments to Rules as Proposed

7075.0100 PURPOSE.

This chapter provides for the administration of the federal construction grant program ~~and~~, the independent state construction grant ~~and~~ program, the state matching construction grant program, and the state loan program for the construction of municipal disposal systems.

7075.0200 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Act. "Act" means the Federal Water Pollution Control Act, United States Code, title 33, section 1251 et seq., ~~as amended through December 31, 1982.~~

Subp. 4. to 8. [Unchanged.]

Subp. 9. Facilities plan. "Facilities plan" includes the information required by Code of Federal Regulations, title 40, section 35.2030, ~~as amended through December 31, 1982,~~ and other information as is necessary to determine whether the project is consistent with good engineering practice and capable of complying with applicable pollution control rules and standards.

Subp. 10. to 16. [Unchanged.]

Subp. 17. Plans and specifications. "Plans and specifications" includes documents that contain the requirements under which a bidder submits a bid for performing the work and the contractual requirements and detailed requirements. The documents that comprise the plans and specifications must conform with generally accepted engineering practices, applicable state statutes and rules, and applicable requirements of Code of Federal Regulations, title 40, parts 33 and 35, ~~as amended through December 31, 1982.~~

Subp. 18. to 27. [Unchanged.]

7075.0400 TYPES OF PROGRAMS.

Under this chapter and Minnesota Statutes, section 116.16 et seq., the agency may disburse funds from the pollution control fund for the following:

A. state matching grants for projects tendered a federal grant under the act;

B. grants to reduce or eliminate the local contribution of a municipality meeting the criteria set forth in part 7075.0425, ~~subpart 2;~~

C. grants to municipalities which would qualify for a federal grant but which desire to initiate construction of the project without a federal grant; independent state grants for planning and construction of municipal disposal systems; and

D. loans for the construction of municipal disposal systems.

CONSTRUCTION GRANTS ~~PROGRAM~~ PROGRAMS**7075.0401 SUMMARY OF CONSTRUCTION GRANTS ~~PROGRAM~~ PROGRAMS.**

A. Federal construction grant funds and state matching construction grant funds are available for Step 2+3 and ~~Step 3~~ projects and advances of allowance for ~~Step~~ Steps 1 and 2.

B. Independent state construction grant funds are available for Steps 1, 2, 3, and 2+3 projects.

C. Construction grants are awarded to municipalities on a priority basis. Municipalities with the highest priorities as determined by a point system are awarded construction grants first.

D. Priorities are determined by awarding points for various disposal system projects based on the waters affected, the population affected, the type of project proposed, and extra points for qualifying projects.

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

F. The agency prepares a municipal project list that lists in order of priority from the municipal needs list, the municipalities that are eligible to apply for construction grants for their projects from funds allotted to the state for the current fiscal year by the federal government or appropriated into the fund for the current fiscal year.

G. A municipality on the municipal project list must apply for a construction grant before a grant will be awarded.

7075.0405 PRIORITY POINTS FOR TYPE OF PROJECT.

Subpart 1. [Unchanged.]

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PROPOSED RULES

Subp. 2. Description of project types. Project types are described as follows:

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

B. Major addition. A major addition to an existing tertiary or secondary treatment plant is an addition that improves effluent quality in order that a municipality achieving less than 90 percent compliance may achieve compliance with applicable NPDES/SDS permit conditions. A major addition also includes major interceptor sewers and sewer system rehabilitation projects.

C. Major interceptor sewer. A major interceptor sewer is a sewer, including related lift stations, that intercepts wastewater from the final point in a collector sewer of a municipality and accomplishes one of the following:

- (1) transports the wastewater directly to a wastewater treatment facility;
- (2) transports the wastewater directly to another major interceptor sewer; or
- (3) transports the wastewater directly to the collector sewer of another municipality.

A sewer is a collector sewer and not a major interceptor sewer if the average design flow of the sewer increases by more than ten percent from wastewater connections to the sewer between its origin and its termination or if it has physical connections closer to each other than 1,000 feet. Infiltration and inflow directly to the sewer and flow from other major interceptor sewers is not included in determining whether the flow has increased by more than ten percent.

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

E. Flow equalization system. A flow equalization system is a containment system such as a pond, basin, or tank designed to temporarily hold wet weather flow until the flow can be transported to the wastewater treatment plant.

F. Relief sewer. A relief sewer is a sewer primarily designed to eliminate bypassing caused by insufficient hydraulic capacity in separate sewer systems by transporting infiltration or inflow to adequately sized sewers or a wastewater treatment facility for proper treatment. A sewer is a relief capacity sewer and not a relief sewer if its design flow includes more than five percent wastewater or if it has physical connections closer to each other than 1,000 feet. Storm sewer separation is not a relief sewer.

G. Relief capacity sewer. A relief capacity sewer is a new sewer designed to handle the normal flow of wastewater and to eliminate bypasses caused by insufficient hydraulic capacity in existing sewers by transporting infiltration and inflow to adequately sized sewers or to a wastewater treatment plant. A relief capacity sewer must be designed to provide future capacity for a minimum of 40 years.

H. Collection system or collector sewer. A collection system or collector sewer is a sanitary sewer, including innovative and alternative sewers carrying raw or partially treated wastewater and providing collection system reliability such as alternative power or dual pumps, that is not a major interceptor sewer, a relief sewer, or relief capacity sewer. For treatment works including subsurface disposal systems designed to treat an average daily flow in excess of ~~4,000~~ 1,200 gallons, a collection system includes devices such as grinder pumps and septic tanks that will partly treat the wastewater, as well as septic tank effluent pumps and small diameter sewers that will pump and convey the partially treated waste.

I. Dechlorination facilities. Dechlorination facilities are facilities that remove chlorine from the effluent.

J. Ancillary addition. An ancillary addition to an existing tertiary or secondary treatment plant is an addition that is not a major addition and is not dechlorination facilities such as administrative support facilities and sludge handling capability to comply with state disposal system permit conditions controlling sludge application to land or sludge disposal.

K. Addition to previously funded project. An addition to a previously funded project is a project that will bring an existing disposal system that has been funded by a construction grant under the act or applicable state statutes or under the Consolidated Farm and Rural Development Act into compliance with the municipality's existing NPDES/SDS permit without a change in the conditions of the NPDES/SDS permit.

L. Modification and replacement of innovative or alternative projects. A modification or replacement of an innovative or alternative project is a project to modify or replace a project that was funded with increased grant funding in accordance with Code of Federal Regulations, title 40, section 35.2032, ~~as amended through December 31, 1982.~~

Subp. 3. Special restrictions for sewer systems projects. Special restrictions for sewer system projects are as follows:

A. Sewer system rehabilitation. In order for a sewer system rehabilitation project to be eligible for priority points under part 7075.0405, subpart 1, item B or F, the municipality must not have obtained a construction grant for treatment plant construction since February 11, 1974, and sewer system rehabilitation must be justified by an infiltration/inflow analysis and sewer system evaluation survey that complies with the requirements of Code of Federal Regulations, title 40, section 35.2120, ~~as amended through December 31, 1982.~~

B. Relief capacity sewer. A relief capacity sewer is not eligible for priority points under part 7075.0405, subpart 1, item B or F unless the municipality has not obtained a construction grant since at least February 11, 1974, and a relief capacity sewer is justified by an infiltration/inflow analysis and sewer system evaluation survey that complies with the requirements of Code of Federal Regulations, title 40, section 35.2120, ~~as amended through December 31, 1982.~~

A relief capacity sewer that qualifies as a major interceptor sewer is considered a major addition to a treatment plant and the municipality proposing the project shall be awarded the priority points under part 7075.0405, subpart 1, item B or F for the entire cost of the project.

A relief capacity sewer that is not a major interceptor sewer must be divided into two components:

(1) the portion of the sewer for domestic, commercial, and industrial wastewater and normal infiltration and inflow and generally accepted peaking factors; and

(2) the portion of the sewer necessary to convey excess infiltration and inflow.

The component in subitem (2) is considered a major addition to a treatment plant and awarded the priority points under part 7075.0405, subpart 1, item B or F and the component in subitem (1) is considered a collector and awarded the priority points under part 7075.0405, subpart 1, item I.

That percentage of total sewer flow at design condition that is attributable to the component in subitem (2), multiplied by the cost of the relief capacity sewer, is fundable as a major addition. That percentage of total sewer flow at design condition that is attributable to the component in subitem (1), multiplied by the cost of the relief capacity sewer, is fundable as a collector sewer.

C. Collection systems or collector sewers. A municipality proposing to undertake a sewer system rehabilitation project or to construct a relief capacity sewer that does not meet the criteria specified in a. and b. must be listed as a separate project on the municipal needs list and awarded the priority points credited to a collection system or collector sewer under part 7075.0405, subpart 1, item I or J.

D. Combined sewer overflow. A project for the control of combined sewer overflow is not eligible for priority points under part 7075.0405, subpart 1, item K unless the project is necessary to meet requirements of the municipality's NPDES/SDS permit and the act. In addition, after October 1, 1984, combined sewer overflow projects are eligible for funding and for priority points under part 7075.0405, subpart 1, item K only if the governor, by July 1 prior to the federal fiscal year in which funding is sought, has set aside a portion of the state's allotment or appropriation for correction of combined sewer overflows. This set aside must not exceed 20 percent of the state's allotment for each fiscal year. In no event after October 1, 1984, may funding for combined sewer overflow projects exceed the amount set aside by the governor for these projects.

Subp. 4. [Unchanged.]

7075.0406 EXTRA POINTS.

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

A. Existing public health hazard. A municipality that proposes a project that will eliminate an existing public health hazard assessed by the Minnesota Department of Health in a health advisory or commissioner's order shall be awarded 40 extra points. A municipality requesting the award of 40 extra points under this provision shall submit the following information to the agency and to the Minnesota Department of Health:

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- (1) information on geologic and soil conditions including soil types, permeabilities, and presence or absence of confining units;
- (2) groundwater flow patterns in the area of the facility or proposed facility;
- (3) an assessment of the extent and magnitude of the contaminant plume;
- (4) an identification of water users and assessment of the amount of water appropriations in the area of the facility or proposed facility;
- (5) flow rates and flow patterns of surface waters;
- (6) information on well construction for wells in the area of the facility or proposed facility, particularly wells that have been or will be impacted;
- (7) a description of the facility's construction, operation, and performance if there is an existing facility, with an explanation of why the facility is creating a public health hazard;
- (8) an identification and assessment of the suspected route of human exposure and the population exposed; and
- (9) a description of how the proposed improvements will mitigate or eliminate the public health hazard.

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

(1) No treatment. A municipality that presently has a central collection system serving 50 percent or more of the population but provides no treatment prior to discharge, or a municipality which collects an average daily flow exceeding one million gallons through a system without combined sewers and which has bypassed sewage more than 40 percent of the time over a period of at least two years while its plant is operating at full capacity, shall be awarded 40 extra points.

(2) Failing septic system. A municipality with an existing septic system where more than 50 percent of the existing septic systems discharge raw or partially treated sewage to the ground surface or surface waters shall be awarded 30 extra points.

(3) Primary treatment. A municipality whose present facilities are designed for only primary treatment shall be awarded 20 extra points.

(4) Combined sewer overflow. A municipality that discharges untreated sewage as a result of combined sewer overflows shall be awarded 20 extra points.

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

- (1) specific point source and nonpoint source pollution abatement strategy; and
- (2) statewide water quality management plan goals and objectives, including the best management practices.

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

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

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

F. Sanitary district. An applicant who includes planned participation in a sanitary district or other multi-municipal disposal system as part of the project shall be awarded ten extra points.

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

7075.0409 MUNICIPAL PROJECT LIST.

Subpart. 1. Adoption of municipal project list. The agency shall adopt a municipal project list each fiscal year which shall list in order of priority projects for which federal grant funds will be requested from current allotments and for which state grants will be awarded from current appropriations. The municipal project list shall also list any nonproject uses of the state's allotment of federal ~~construction~~ grant funds and of the appropriation of state grant funds, including but not limited to, training grants and costs of administration.

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

Subp. 3. Preparation of proposed municipal project list. ~~The agency shall prepare a proposed municipal project list of municipalities on the municipal needs list that have submitted approvable facilities plan or plans and specifications in conventional order of priority until the cost of the proposed projects reaches the full allotment of federal construction grant funds available for the fiscal year. In preparing the list, the agency shall consider the percentage of the cost of the projects that will be paid for by a federal construction grant, as determined by requirements of the act and decisions of the governor under the act to uniformly reduce the federal share of grant assistance~~ The agency shall prepare a municipal project list that lists in order of priority from the municipal needs list the municipalities that are eligible to apply for construction grants for their projects from funds allotted to the state for the current fiscal year by the federal government or appropriated into the fund for the current fiscal year.

In drafting the proposed municipal project list, the agency shall consider the following factors in the order given:

- A. total dollars available for obligation from each funding source;
- B. eligibility of projects and portions of projects according to these parts and applicable state and federal statutes;
- C. restrictions on obligations mandated by these parts and applicable state and federal statutes, including but not limited to set asides for administration of certain types of projects, and the percentage of the cost of construction that will be paid by state and federal grants; and
- D. the municipalities' preferences for funding sources.

Subp. 4. Procedure for drafting list. In drafting the proposed municipal project list, the agency shall list projects on the proposed list according to the following procedures:

A. The agency shall accommodate municipalities' preferences for funding sources in priority order until the costs of the projects being funded from one funding source reach the full allotment or appropriation of grant funds available from that source for the fiscal year. If a municipality expresses no preference, the agency shall determine from which source it will be funded.

B. The agency shall then list projects in priority order, funding those projects from the remaining funding source, until the costs of the projects reach the full allotment or appropriation of grant funds available for the fiscal year. Projects ineligible under the remaining funding source must be considered for placement on the following fiscal year's municipal project list.

C. The agency shall then list on the municipal project list in priority order those projects on the municipal needs list with priority rankings lower than those selected under items A and B, but which have been identified by the commissioner of energy and economic development by July 1 as being substantial economic development projects, and for which a portion of the appropriation for the fiscal year has been set aside for such projects.

D. The agency may list projects which will receive Step 1 and 2 grants and advances of allowance in such a manner as to permit funding to proceed in an orderly fashion to fully utilize all allocated and appropriated funds.

Subp. 5. Reimbursement project list. The agency shall prepare a reimbursement project list that lists those municipalities that

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are willing to proceed with projects and are willing to apply to be reimbursed in the subsequent year conditioned upon appropriation of sufficient money for that year. No municipality may be listed on the reimbursement project list unless the municipality has requested placement on the list, has submitted approvable plans and specifications, and is expected by the agency to be listed on the following fiscal year's municipal project list. The total cost of these reimbursement projects may not exceed the amount of the expected independent state grant appropriation for the next year. Reimbursement projects must be listed in the same order of priority as they appear on the municipal needs list. A reimbursement project may appear on both the reimbursement project list and the reserve project list.

7075.0411 PROJECT ELIGIBILITY.

Subpart 1. Steps eligible. Federal grants and state matching grants shall be awarded only for Step 2+3 and Step 3 projects. Advances of allowance for Step 1 and 2 projects may also be provided from federal funds. Independent state grants may be awarded for Step 1, Step 2, Step 2+3, and Step 3 projects.

Subp. 2. General eligibility. No project is eligible for a federal grant or a state matching grant unless it is eligible for funding under the act and applicable federal regulations. No project is eligible for an independent state grant unless it is eligible under these parts and applicable state statutes.

Subp. 3. Initiation of construction. A municipality is not eligible for a federal grant or a state matching grant if construction on the project has been initiated prior to the award of the grant.

A municipality may be eligible for an independent state grant after initiation of construction, provided that:

A. the municipality was listed on the reimbursement project list in the fiscal year construction began;

B. the municipality submitted a complete grant application to the agency within 90 days after adoption of the reimbursement project list; and

C. the municipality obtained written permission from the agency to advertise for bids and initiate construction before those steps were taken.

~~Subp. 3~~ 4. Cost-effectiveness. A project is not eligible for a grant unless the agency determines that the project is an environmentally acceptable cost-effective means of handling the municipality's wastewater. The agency shall not award a grant to pay for those portions of a project that are not environmentally acceptable and cost-effective.

7075.0412 ADJUSTMENTS IN THE MUNICIPAL PROJECT LIST.

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

7075.0413 PUBLIC PARTICIPATION.

Subpart 1. Needs and project lists. The agency shall prepare a proposed municipal needs list ~~and~~ a proposed municipal project list, and a proposed reserve project list and a proposed reimbursement project list and make them available to the public at least 45 days before adoption. The agency shall mail a free copy of the proposed lists to an interested person upon request.

Subp. 2. [Unchanged.]

Subp. 3. Notice. The agency shall give affected municipalities at least 45 days notice of the agency board meeting at which the proposed municipal needs list ~~and~~ proposed municipal project list, a proposed reserve project list, and a proposed reimbursement project list will be acted upon.

Subp. 4. [Unchanged.]

7075.0414 GRANT APPLICATIONS.

Subpart 1. and 2. [Unchanged.]

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

Subp. 4. Additional information for a Step 1 grant. A municipality that applies for a Step 1 grant shall, in addition to submitting the completed application form, submit the following information for agency review and approval:

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A. A resolution of the governing body of the municipality that authorizes the filing of the application and that designates the municipal official authorized to sign the application and grant documents.

B. A plan of study outlining the scope of work which will lead to an approvable facilities plan.

C. Construction cost estimates.

D. An engineer's certificate of adequate errors and omissions insurance.

E. If more than one municipality is involved in the grant application, the resolutions required in items A and G must be submitted for each municipality involved in the project. In addition, the municipalities shall submit an agreement indicating their intent to participate in joint treatment, outlining each municipality's responsibilities during planning and setting forth the cost-sharing methodology.

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

G. Unsewered municipalities shall also submit the following:

(1) a resolution by the governing body of the municipality resolving not to proceed with further planning beyond a phase 1 needs determination until the agency has approved the phase 1 and concurs that further planning is justified;

(2) a resolution by the governing body of the municipality acknowledging that they are willing to pay the local share of the project costs;

(3) a resolution by the governing body of the municipality resolving that the sewage collection system will be constructed concurrently with the sewage treatment works if the collection system is not part of the project to be funded; and

(4) the municipality's proposal for funding the cost of a collection system if the collection system is not part of the project to be funded.

H. Other documents that are required by EPA regulation or other requirements of the act or other state or federal statutes.

Subp. 5. Additional information for Step 2 or Step 2+3 grant. A municipality that applies for a Step 2 or Step 2+3 grant shall, in addition to submitting the completed application form, submit the following information for agency review and approval.

A. A resolution of the governing body of the municipality that authorizes the filing of the application and that designates the municipal official authorized to sign the application and grant documents.

B. Updated cost estimates for Step 3 project work in a format provided by the agency.

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

D. The municipality's proposal for funding the cost of a collection system if the collection system is not part of the project to be funded and the municipality does not already have a collection system.

E. An engineer's certificate of adequate errors and omissions insurance.

F. Amendments to the facilities plan.

G. A treatment agreement for each major contributing industry ~~to be used in determining the design basis of~~ that will discharge wastewater to the new or upgraded system.

H. A certification from the municipality that the municipality shall prohibit unpolluted water connections to the municipality's sanitary sewer system in the future, and inspect new connections to the sanitary sewer system throughout the municipality's jurisdiction to ensure that the connections conform to the Minnesota Plumbing Code, found in the rules of the department of health, chapter 4715.

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

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

K. Other documents that are required by EPA regulation or other requirements of the act or other state or federal statutes.

Subp. 5 6. Additional information for Step 3 grant. A municipality that applies for a Step 3 grant shall, in addition to submitting the completed application form, submit the following information for agency review and approval:

A. ~~Addendums~~ Addenda to the plans and specifications for the treatment works or other project to be funded.

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

The user charge system must ensure the sufficient generation of revenue to offset the annual costs of operation, maintenance, and replacement (O, M, and R) of the treatment works and must charge each user class a fee proportional to the contribution of each user class to the total wastewater loading.

The user class includes residential, commercial, industrial, institutional, and governmental classes.

The system for raising funds to cover the municipality's costs of construction and to retire the municipality's debt costs need not be proportionally assessed against each user class, but the manner in which the charge will be distributed must be described.

C. Documentation of how the public has been informed of the proposed sewer service charge system.

D. A sewer use ordinance to control discharges to the disposal system throughout the jurisdiction of the municipality.

E. A preliminary plan of operation of the treatment works.

F. Costs for developing an operation and maintenance manual and a procedure for startup of the treatment works.

G. A wage rate determination information sheet, as provided by the agency.

H. A signature and registration number of the consulting engineer accompanying the following certification statement:

The treatment works described in this grant application have been designed with full knowledge of the effluent limitations required by the Minnesota Pollution Control Agency as set forth in NPDES Permit No. _____ dated _____. It is my judgement and carefully considered opinion that these treatment works are capable of consistently producing the required effluent quality, provided that the facility is operated in conformance with the approved operation and maintenance manual and that the volume and characteristics of raw wastewater are within the limits of "Design Data" stated on page . . . of the plans as follows:

I. A proposed engineering contract that provides for the consulting engineer or the engineer's agent to be present onsite during the hours of construction for purposes of inspection, although the inspector does not have to be a resident of the municipality, and to submit written reports to the agency on request describing the type of construction inspected and the time involved in inspection after construction commences.

J. An engineer's certificate of adequate errors and omissions insurance.

K. A treatment agreement with each major contributing industry ~~to be used in determining the design basis of that will discharge wastewater~~ to the new or upgraded system.

L. A cost breakdown for all project work to be funded by the grant, including separation of eligible and ineligible items, in a format provided by the agency.

M. Documentation of the municipality's source of funding to cover the cost of a collection system if the collection system is not part of the project to be funded and the municipality does not already have a collection system.

N. If more than one municipality is involved in the grant application, an executed intermunicipal agreement that sets forth the terms and conditions of joint treatment and the cost sharing methodology.

O. Assurance that the municipality has, or will have within 90 days after authorization to bid, full rights to all necessary land to allow construction and operation of the facilities during the useful life of the facilities.

P. Other documents that are required by EPA regulation or other requirements of the act or other state or federal statutes.

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Subp. 6 ~~7~~. Requirements prior to authorization to seek construction bids. A municipality that has received a Step 2+3 grant shall submit the same information required of a Step 3 grant application before the municipality may receive authorization to seek bids for construction of the project.

Subp. 7 ~~8~~. Three copies. Construction grant application forms and attachments must be submitted in triplicate to the agency.

7075.0416 APPROVAL OF GRANT APPLICATIONS.

The agency shall approve grant applications that are not rejected for one or more of the reasons specified in part 7075.0415.

The director shall certify to the EPA each approved federal grant application.

7075.0417 ~~TENDER OF GRANT~~ FEDERAL AND STATE MATCHING GRANTS.

The state may not tender a federal grant until the EPA has determined the eligibility of the municipality for which a grant application has been certified to EPA.

After the EPA has determined the eligibility of the application and tendered a federal grant, the agency shall make a similar grant offer to the municipality in an amount not less than that required by federal law and regulation as a condition for the grant of federal funds or in an amount not less than that allowed by state statutes where not required by federal law.

7075.0419 ADVANCES OF ALLOWANCE.

Subpart 1. Allotment reserve. The agency shall reserve a reasonable portion of its annual federal allotment for advances to municipalities for Step 1 and Step 2 work. The amount reserve shall not exceed ten percent of the ~~state~~ state's federal allotment for a fiscal year.

Subp. 2. Advance of allowance. A municipality on the municipal needs list with a population in the service area of less than ~~3,500~~ 10,000 people is eligible to apply for an advance of allowance. The application shall be submitted by July 1 prior to the beginning of the federal fiscal year for which the municipal project list will be prepared.

Subp. 3. Information required for advance of allowance. A municipality applying for an advance of allowance shall submit the following information to the agency:

- A. council resolution requesting the advance;
- B. certification that funds are not available from other sources;
- C. estimate of construction costs of the project with supporting documentation;
- D. per capita income;
- E. municipal bonded debt;
- F. adjusted assessed value of the municipality; and

G. ~~council resolution certifying that the municipality cannot afford to do the work with its own resources~~ for Step 1 advances, a plan of study that will result in an approvable facilities plan.

Subp. 4. [Unchanged.]

Subp. 5. One advance limit. A municipality is entitled to ~~an~~ one Step 1 advance of allowance ~~on one occasion only~~ and one Step 2 advance of allowance.

Subp. 6. Reduction of Step 3 grant. A municipality that receives an advance of allowance shall ~~have its Step 3~~ not receive a construction grant ~~reduced by an amount equal to~~ for work paid for by the advance of allowance.

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

~~Subp. 8.~~ Order of award for advance. If more municipalities apply for an advance of allowance than can be awarded from the amount reserved for that purpose, the money available must be awarded to the qualifying municipalities in order of their placement on the municipal needs list.

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7075.0425 STATE GRANTS LOCAL SHARE.

~~Subpart 1. Projects for which federal money is available. The agency may tender a grant of state funds to a municipality that would otherwise qualify for a federal grant but desires to initiate construction of a project without a federal grant if enough funds are in the pollution control fund to cover state matching grants for those projects on the municipal projects list for which federal grants are available.~~

~~Subp. 2. Local share. The agency may tender a grant of state funds to a municipality for what would otherwise be the local share of the cost if:~~

A. the municipality has applied for a state grant to cover the local share by July 1 of the fiscal year for which the grant is requested;

B. the municipality is unable to finance the local share and attain a minimal point rating of 40 under the criteria of part 7075.2200;

C. application is made prior to the initiation of construction; and

D. the public health of the state and the prevention, control, and abatement of water pollution require the construction of the project.

7075.2000 APPLICATION FOR CONSTRUCTION LOAN PROGRAM.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Other evidence of support. The construction loan application form shall be supported by:

A. The attachments of subpart 2, items A, B, and D and the items of part 7075.0414, subpart ~~§~~ 6. The director for just cause may waive or defer the submission of any items required pursuant to part 7075.04014, subpart ~~§~~ 6 if the items are EPA requirements.

B. Resolution of the governing body of the municipality obligating the municipality to repay the loan to the state treasurer in annual installments including both principal and interest, each in an amount sufficient to pay the principal amount within 20 years or a shorter time interval if the amount of the annual payment will not justify the administrative expenses of processing the payment, from user charges, taxes, special assessments, or other funds available to it.

Subp. 4. and 5. [Unchanged.]

Emergency Rules as Proposed (All new material)

7075.04115 [Emergency] GRANT AMOUNTS.

Subpart 1. State matching grants. For projects tendered, on or after October 1, 1984, a federal grant at 55 percent or more of the eligible cost for construction of a treatment works, the agency shall award a state matching grant for up to an additional 15 percent of the eligible cost if construction of the treatment works would otherwise impose a significant financial hardship on the municipality.

Subp. 2. Independent state grants. The agency may award independent state grants as follows:

A. The agency may award Step 1 and Step 2 independent state grants to municipalities in an amount determined according to the same procedures for calculating an allowance under Code of Federal Regulations, title 40, part 35, appendix B.

B. The agency may award Step 2+3 and Step 3 independent state grants to municipalities to pay for 50 percent of the eligible cost of construction, or, if the agency requires advanced treatment, 65 percent of the eligible cost of construction. If construction of a treatment works would otherwise impose a significant financial hardship on a municipality, the agency may award an independent state grant to pay for up to an additional 15 percent of the eligible cost of construction, or if the agency requires advanced treatment, an additional ten percent of the eligible cost of construction.

Subp. 3. Local share. Except as provided in part 7075.0425, in no event may a municipality that obtains a state matching grant or independent state grant be responsible for less than 25 percent of the eligible cost of the project.

Subp. 4. Significant financial hardship. The amount of a state matching grant awarded to a municipality after October 1, 1984, and the amount of a supplemental independent state grant awarded to a municipality depends on the extent to which construction of the treatment works imposes a significant financial hardship on the municipality. The determination of the financial hardship and the amount of the grant must be based on per connection capital cost, median household income, and per capita adjusted assessed valuation, in accordance with the following procedures:

A. The agency shall award a state matching grant or independent state grant for up to five percent of the eligible cost of construction based on the municipality's per connection capital cost after bidding compared with the median per connection capital cost for all projects which accepted bids under the programs during the two years prior to adoption of the municipal

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project list on which the municipality appears. The percentage of the eligible cost to be paid for by the grant based on per connection capital cost is determined by the following table.

Municipality Per Connection Cost \times 100 \div Median Per Connection Cost
of Projects Bid During Previous Two Years

	Percentage of Cost Funded
60-69	0.5
70-79	1.0
80-89	1.5
90-99	2.0
100-119	2.5
120-139	3.0
140-159	3.5
160-179	4.0
180-199	4.5
200 or more	5.0

B. The agency shall award a state matching grant or independent state grant for up to five percent of the eligible cost of construction based on the municipality's median household income compared with the state median nonmetropolitan household income. Median household income must be determined from the latest federal census. The percentage of the eligible cost to be paid for by the grant based on median household income is determined by the following table.

Municipality Median Household Income \times 100 \div State Median
Nonmetropolitan Household Income

	Percentage of Cost Funded
100-104	0.5
95-100	1.0
90-94	1.5
85-89	2.0
80-84	2.5
75-79	3.0
70-74	3.5
65-69	4.0
60-64	4.5
less than 60	5.0

C. The agency shall award a state matching grant or independent state grant for up to five percent of the eligible cost of construction based on the municipality's per capita adjusted assessed valuation compared with the state median per capita adjusted assessed valuation. Per capita adjusted assessed valuation must be determined from the latest data available from the Department of Revenue at the time of the grant award. The percentage of the eligible cost to be paid for by the grant based on the per capita adjusted assessed valuation is determined by the following table.

Municipality Per Capita Adjusted Assesed Valuation \times 100 \div State
Median Per Capita Adjusted Assesed Valuation

	Percentage of Cost Funded
105-109	0.5
100-104	1.0
95-99	1.5
90-94	2.0
85-89	2.5
80-84	3.0
75-79	3.5
70-74	4.0
65-69	4.5
less than 65	5.0

7075.04211 [Emergency] PAYMENT OF STATE MATCHING GRANTS.

Subpart 1. Step 1 grants. The agency shall pay 50 percent of a Step 1 state matching grant when an adequate facilities plan has

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been received by the director. The remaining 50 percent of the Step 1 state matching grant shall be paid when the agency approves of the facilities plan and after final payment has been paid by the Environmental Protection Agency.

Subp. 2. Step 2 matching grants for federal grants awarded before May 12, 1982. The agency shall pay 50 percent of a Step 2 state matching grant for a federal grant awarded before May 12, 1982, when plans and specifications have been received by the director. The remaining 50 percent of the Step 2 state matching grant shall be paid when the agency approves of the plans and specifications and after final payment has been paid by the Environmental Protection Agency.

Subp. 3. Step 2 portion of Step 2+3 matching grants for federal grants awarded before May 12, 1982. The agency shall pay 50 percent of the Step 2 portion of a Step 2+3 state matching grant for a federal grant awarded before May 12, 1982, when adequate plans and specifications have been received by the director. The remaining 50 percent of the Step 2 state matching grant shall be paid when the agency approves of the plans and specifications and after final payment has been paid by the Environmental Protection Agency. The agency shall pay for eligible land costs when the municipality submits proof of purchase, if the municipality received the agency's advance approval to purchase the land.

Subp. 4. Step 2 portion of Step 2+3 grants awarded after May 12, 1982. The agency shall pay 50 percent of the Step 2 portion of a Step 2+3 state matching grant awarded after May 12, 1982, when the plans and specifications are 50 percent complete, and the municipality has submitted a payment request certifying that at least 50 percent of the work on the plans and specifications is complete. The agency shall pay the remaining 50 percent of the Step 2 portion of the grant when a payment request has been submitted, the Environmental Protection Agency has paid the federal grant, and the municipality has awarded all subcontracts for construction and purchased all eligible land. The agency shall pay for eligible land costs when the municipality submits proof of purchase, provided the municipality received the agency's advance approval to purchase the land.

Subp. 5. Step 3 grant. A municipality may request periodic payments of a Step 3 state matching grant up to 50 percent of the total grant. The request for payment shall be submitted to the agency in writing. With each payment request the municipality shall submit a summary of all architectural and engineering costs expended to date in the format required in submitting the original grant application.

The agency shall make a final grant payment for the remaining 50 percent of the grant after the agency has completed a final inspection of the treatment works and the municipality has:

- A. submitted to the agency a request for the payment;
- B. hired a wastewater treatment works operator having a valid state certificate;
- C. adopted a sewer use ordinance that will control wastewater discharges to the municipality's wastewater treatment system;
- D. adopted a user charge system that will generate revenue to offset the annual costs of operation, maintenance, and equipment replacement;
- E. submitted a certification by the contractor that the project was built according to the plans and specifications;
- F. submitted a copy of the as-built specifications;
- G. certified that the municipality is complying with the operation and maintenance manual for the treatment works that was approved by the agency;
- H. complied with the municipality's NPDES/SDS permit for the treatment works;
- I. put the treatment plant into operation and is operating the treatment plant efficiently;
- J. received final payment of the federal grant;
- K. submitted a revised operation and maintenance manual; and
- L. submitted a start-up report.

Subp. 6. Step 3 portion of Step 2+3 grant. The agency shall pay the Step 3 portion of a Step 2+3 grant in accordance with the procedure and requirements in subpart 5.

Subp. 7. Step 3 grant with allowance. The agency shall pay the allowance for facilities planning and design immediately after the grant is awarded provided the municipality submits a payment request and the EPA has paid the federal allowance.

The agency shall pay the Step 3 grant in accordance with the procedures and requirements in subpart 5.

7075.04212 [Emergency] PAYMENT OF INDEPENDENT STATE GRANTS.

Subpart 1. Step 1 grants for sewerred communities. The agency shall pay Step 1 grants for sewerred communities in accordance with the following schedule:

- A. 25 percent of the grant when the facilities plan is 50 percent complete, as certified by the municipality;

- B. up to 50 percent of the grant when the facilities plan is received by the director; and
- C. the balance of the grant when the facilities plan has been approved by the agency.

Subp. 2. Step 1 grants for unsewered communities. The agency shall pay Step 1 grants for unsewered communities in accordance with the following schedule:

A. Twenty-five percent of the grant when the agency determines that the municipality needs to do additional planning for sewage treatment. If the agency determines that the municipality does not need to do additional planning, this payment will constitute final payment.

- B. Up to 50 percent of the grant when the facilities plan is received by the director.
- C. The balance of the grant when the facilities plan has been approved by the agency.

Subp. 3. Step 2 grants. The agency shall pay Step 2 grants in accordance with the following schedule:

- A. 25 percent of the grant when the plans and specifications are 50 percent complete, as certified by the municipality;
- B. up to 50 percent of the grant when the plans and specifications are received by the director; and
- C. the balance of the grant when the plans and specifications have been approved by the agency.

Subp. 4. Step 2 portion of Step 2+3 grants. The agency shall pay the Step 2 portion of a Step 2+3 grant in accordance with the following schedule:

- A. 25 percent of the grant when the plans and specifications are 50 percent complete, as certified by the municipality;
- B. up to 50 percent of the grant when the plans and specifications are received by the director;
- C. the remaining amount of the Step 2 portion of the grant, when a payment request has been submitted and the municipality has awarded all subcontracts for construction and purchased all eligible land; and
- D. the agency shall pay for eligible land costs when the municipality submits proof of purchase, provided the municipality received the agency's advance approval to purchase the land.

Subp. 5. Step 3 portion of Step 2+3 grant. The agency shall pay the Step 3 portion of a Step 2+3 grant in accordance with the following schedule:

A. A municipality may request in writing periodic payments of the Step 3 portion of a Step 2+3 grant up to 50 percent of the total grant. With each payment request the municipality shall submit a summary of all architectural and engineering costs expended to date in the format required in submitting the original grant application.

B. The agency shall make periodic payments of the amount encompassing 51 percent to 80 percent of the Step 3 portion of the Step 2+3 grant when the municipality submits the information required in item A and has completed the following:

- (1) received agency approval of the final plan of operation;
- (2) hired a wastewater treatment works operator having a valid state certificate;
- (3) adopted a sewer use ordinance that will control wastewater discharges to the municipality's wastewater treatment system; and
- (4) adopted a sewer service charge system with updated cost revisions.

C. The agency shall make a final payment for the remaining 20 percent of the grant after the agency has completed a final inspection of the facilities and the municipality has completed the tasks for the earlier payments and performed the following:

- (1) submitted a certification by the contractor that the project was built according to the plans and specifications;
- (2) submitted a copy of the as-built specifications;
- (3) certified that the municipality is complying with the operation and maintenance manual for the treatment works that was approved by the agency;
- (4) complied with the municipality's NPDES/SDS permit for the treatment works;
- (5) put the treatment plant into operation and is operating the treatment plant efficiently;

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- (6) submitted a revised operation and maintenance manual; and
- (7) submitted a start-up report.

Subp. 6. Step 3 grants. The agency shall make periodic payments of a Step 3 grant in accordance with the procedures and requirements in subpart 5.

Subp. 7. Step 3 grant with allowance. The agency shall pay the allowance for facilities planning and design immediately after the grant is awarded provided the municipality has submitted a payment request.

The agency shall make periodic payments of the Step 3 grant in accordance with the procedures and requirements in subpart 5.

7075.04213 [Emergency] PAYMENT OF ADVANCES OF ALLOWANCE.

Subpart 1. Sewered communities. The agency shall pay Step 1 advances of allowance for sewered communities in accordance with the procedures and requirements in part 7075.04212 [Emergency], subpart 1.

Subp. 2. Unsewered communities. The agency shall pay Step 1 advances of allowance for unsewered communities in accordance with the procedures and requirements in part 7075.04212 [Emergency], subpart 2.

Subp. 3. Step 2 advances of allowance. The agency shall pay Step 2 advances of allowance for unsewered communities in accordance with the procedures and requirements in part 7075.04212 [Emergency], subpart 3.

7075.04214 [Emergency] GENERAL REQUIREMENTS.

Subpart. 1. EPA payment. The agency shall not make any payments of a state matching grant until the Environmental Protection Agency has paid the corresponding federal grant payment.

Subp. 2. Reduction in independent state grant payments. For independent state grants, if the actual costs are less than the amount on which the grant was based, the agency shall reduce the grant proportionately.

Subp. 3. Payment request. The agency shall not make any grant payments unless the municipality submits a written payment request.

REPEALER. Minnesota Rules, part 7075.0422 is repealed.

EFFECTIVE DATE. Notwithstanding any rule or law to the contrary, upon expiration of the emergency amendments to parts 7075.0100, 7075.0200, 7075.0400, 7075.0401, 7075.0405, 7075.0406, 7075.0409, 7075.0411, 7075.0412, 7075.0413, 7075.0414, 7075.0416, 7075.0417, 7075.0419, 7075.0425, and 7075.2000 and the repealer of part 7075.0422, the permanent parts amended and repealed are reinstated.

Secretary of State

Proposed Rules Relating to Uniform Commercial Code Standard Forms Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Secretary of State proposes to adopt the above-captioned rules without a public hearing. The Secretary of State 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. 21-14.28 (1982).

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 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. 14.21-14.28 (1982).

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

Tom Durand, Office Director
Office of the Secretary of State
180 State Office Building
St. Paul, MN 55155

Authority for the adoption of these rules is contained in Minn. Stat. 336.9403 Subd. 5. Additionally, a statement of need and reasonableness that describes the need and reasonableness of each provision of the proposed rules and amendments has been prepared and is available from Tom Durand upon request.

PROPOSED RULES

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

Joan Anderson Growe
Secretary of State

Rules as Proposed (all new material)

8260.0100 FINANCING STATEMENT: FORM UCC-1.

Subpart 1. Permitted use. This form is for use when filing a financing statement pursuant to Minnesota Statutes, section 336.9-402, subsection (1), paragraphs (a) and (c). The use of any other form will result in a nonstandard fee charge.

Subp. 2. Standard form. To be considered a standard Minnesota uniform commercial code financing statement form, the following specifications must be met:

- A. the size must be 8 inches by 5 inches, excluding the top perforated tab;
- B. the form must be five carbon or carbon-less snap-out;
- C. the first page must be between 24- and 28-pound white ledger paper, printed with black ink; and
- D. the size of the type must not be less than 6 point.

Subp. 3. Report form. A standard financing statement form must be in substantially the following form:

STATE OF MINNESOTA UNIFORM COMMERCIAL CODE STANDARD FORM UCC-1

Print or Type in Black Ink

(Read Instructions on Back)

This STATEMENT is presented for filing pursuant to the Uniform Commercial Code

Debtor(s) (Last Name First) and Address(es)

Secured Party(ies) and Address(es)

For
Filing
Officer

1. This financing statement covers the following types (or items) of property:

Assignee(s) of Secured Party

2. Products/Proceeds of Collateral are also covered by this Statement

If crops are covered describe the real estate and give the name of the record owner.

- Additional sheets presented.
- Debtor is a transmitting utility as defined in M.S. 336.9-105.
- For Filing with the Secretary of State of Minnesota.
- For Filing with the County Recorder _____ County.
- For Filing in Uniform Commercial Code Records (1) Filing Officer Copy Alphabetical

Signature(s) of Debtor(s): (Required in most cases — see instruction # 5)

BY: _____ BY: _____

If the Debtor's signature is not present indicate the reason for its absence in the Debtor's signature block and sign the Secured Party's signature block

Signature of Secured Party

BY: _____

(Rev. 6/84)

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

Subp. 4. Carbon pages. The remaining four pages will be identical to the first page except:

A. The second page must be green and of 15-pound bond paper. The language "(2) Filing Officer Copy-Numerical" must appear at the bottom left.

B. The third page must be pink and of 12-pound bond paper. It must appear as follows:

STATE OF MINNESOTA UNIFORM COMMERCIAL CODE STANDARD FORM UCC-1

Print or Type in Black Ink.		(Read Instructions on Back)
This STATEMENT is presented for filing pursuant to the Uniform Commercial Code		
Debtor(s) (Last Name First) and Address(es)	Secured Party(ies) and Address(es)	For Filing Officer
1. This financing statement covers the following types (or items) of property:		Assignee(s) of Secured Party
2. <input type="checkbox"/> Products/Proceeds of Collateral are also covered by this Statement		<input type="checkbox"/> If crops are covered describe the real estate and give the name of the record owner.

TERMINATION STATEMENT: This Statement of Termination of Financing is presented to a Filing Officer pursuant to the Uniform Commercial Code. The Secured Party certifies that the Secured Party no longer claims a security interest under the financing statement bearing the file number shown above.

Date _____ 19____.

(3) Filing Officer Copy - Acknowledgment

BY: _____
(Signature of Secured Party or Assignee of Record. Must be signed)

(Rev. 6/84)

C. The fourth page must be white and of 12-pound bond paper. The language "(4) Secured Party Copy" must appear at the bottom left.

D. The fifth page must be white and of 12-pound bond paper. The language "(5) Debtor Copy" must appear at the bottom left.

Subp. 5. Instructions. On the back of the fifth page, beginning below the perforation, must appear the following:

"INSTRUCTIONS

1. This form must be typed or printed in black so that it is legible on the white, pink, and green copies.
2. provide the true and complete name of the debtor; initials or abbreviations may not be sufficient to properly index your filing.
3. If the space provided for any items on this form is inadequate, the item(s) may be continued on additional sheets, preferably 8½ inches by 11 inches. Only one copy of the additional sheets needs to be presented to the filing officer.
4. There is an additional fee, which you must include, when additional sheets are attached and/or when more than one debtor's name is listed.

5. If this filing does not include the debtor's signature, the secured party must sign and indicate on the front the reason for its absence. The possible reasons listed by Minnesota Statutes, section 336.9-402, subsection (2), are that the collateral listed is/was:

- a. brought into this state already subject to a security interest in another jurisdiction;
- b. subject to a security interest in another jurisdiction, and the debtor's location has changed to this state;
- c. proceeds of some collateral in which a security interest was previously perfected in this state;
- d. the subject of a financing statement which has lapsed;
- e. subject to a security interest perfected under a prior name or identity of the debtor; or
- f. a personal service lien.

IF THE REASON FOR NO DEBTOR'S SIGNATURE IS NOT INCLUDED ABOVE, PLEASE STATE THE REASON ON THE FRONT OF THE FORM. BE ADVISED THAT THE REASON YOU LIST MAY NOT BE CONSIDERED A SUFFICIENT REASON BY A COURT OF LAW.

6. When the form is completed, remove the Secured Party and Debtor copies and send the remaining three (white, pink, and green) copies with interleaved carbon paper intact (if applicable) to the proper filing officer:

Secretary of State
U.C.C. Division
180 State Office Bldg.
St. Paul, MN 55155

OR

County Recorder
Courthouse
_____ County
_____ MN _____

7. The pink copy will be stamped with the filing information and returned to you by the filing officer. If the lien is terminated prior to the regular five-year expiration, the secured party should sign the pink copy and return it to the filing officer so that the original can be removed from the files. There is no fee for filing a termination statement unless it is submitted on a "nonstandard" form or if it is for a fixture filing (form UCC-2).

NOTICE: INSTRUCTIONS ARE PROVIDED AS AN ACCOMMODATION AND SHOULD NOT BE CONSTRUED AS A COMPLETE STATEMENT OF THE UNIFORM COMMERCIAL CODE. ALWAYS CONSULT MINNESOTA STATUTES ON THE PROPER PREPARATION AND FILING OF THIS FORM."

8260.0200 FIXTURE/REAL ESTATE: FORM UCC-2.

Subpart 1. Transactions covered. This form is for use when filing a financing statement pursuant to Minnesota Statutes, section 336.9-402, subsection (1), paragraph (b). The use of any other form will result in a nonstandard fee.

Subp. 2. Standard form. To be considered a standard Minnesota fixture/real estate form, the following specifications must be met:

- A. the size must be 8 inches by 5 inches, excluding the top perforated tab;
- B. the form must be five carbon or carbon-less snap-out;
- C. the first page must be between 24- and 28-pound white ledger paper, printed with black ink; and
- D. the size of the type must not be less than 6 point.

Subp. 3. Report form. A standard fixture/real estate form must be in substantially the following form:

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

STATE OF MINNESOTA UNIFORM COMMERCIAL CODE STANDARD FORM UCC-2

FIXTURE/REAL ESTATE FINANCING STATEMENT

(Read Instructions on Back)

Print or Type in Black Ink.

This STATEMENT is presented for filing pursuant to the Uniform Commercial Code

Debtor(s) (Last Name First) and Address(es)

Secured Party(ies) and Address(es)

For Filing Officer

1. This financing statement covers the following types (or items) of property:
(Set forth legal description of property and name of record owner)

Assignee(s) of Secured Party

2. Products/Proceeds of Collateral are also covered by this Statement

3. This is a Fixture Filing or covers timber, minerals, or accounts subject to M.S. 336.9-103(5)

Provide Name and Address of Drafter:

4. Abstract Property
 Torrens Property

Title Number: _____
(Submit Owners Duplicate Certificate)

____ Additional sheets presented.
____ Debtor is a transmitting utility as defined in M.S. 336.9-105.
____ For Filing with the Secretary of State of Minnesota.
____ For Filing with the County Recorder _____ County.
____ For Filing in Uniform Commercial Code Records
____ For Filing in Real Estate Records

(1) Filing Officer Copy -
Alphabetical

Signature(s) of Debtor(s): (Required in most cases - see instruction # 5)

BY: _____ BY: _____

If the Debtor's signature is not present indicate the reason for its absence in the Debtor's signature block and sign the Secured Party's signature block.

Signature of Secured Party

By: _____

(Rev. 6/84)

Subp. 4. Carbon pages. The remaining four pages will be identical to the first page except:

A. The second page must be green and of 15-pound bond paper. The language "(2) Filing Officer Copy-Numerical" must appear at the bottom left.

B. The third page must be pink and of 12-pound bond paper. It must appear as follows:

STATE OF MINNESOTA UNIFORM COMMERCIAL CODE STANDARD FORM UCC-2

FIXTURE/REAL ESTATE FINANCING STATEMENT (Read Instructions on Back)

Print or Type in Black Ink

This STATEMENT is presented for filing pursuant to the Uniform Commercial Code

Debtor(s) (Last Name First) and Address(es)

Secured Party(ies) and Address(es)

For Filing Officer

1. This financing statement covers the following types (or items) of property:
(Set forth legal description of property and name of record owner)

Assignee(s) of Secured Party

2. Products/Proceeds of Collateral are also covered by this Statement

3. This is a Fixture Filing or covers timber, minerals, or collateral in M.S. 336.9-103 (5)

Provide Name and Address of Drafter:

4. Abstract Property
 Torrens Property

Title Number:
(Submit Owners Duplicate Certificate)

TERMINATION STATEMENT: This Statement of Termination of Financing is presented to a Filing Officer pursuant to the Uniform Commercial Code. The Secured Party certifies that the Secured Party no longer claims a security interest under the financing statement bearing the file number shown above.

Date _____ 19____.

BY: _____
(Signature of Secured Party or Assignee of Record. Must be signed)

(3) Filing Officer Copy - Acknowledgment

(Rev. 6/84)

C. The fourth page must be white and of 12-pound bond paper. The language "(4) Secured Party Copy" must appear at the bottom left.

D. The fifth page must be white and of 12-pound bond paper. The language "(5) Debtor Copy" must appear at the bottom left.

Subp. 5. Instructions. On the back of the fifth page, beginning below the perforation, must appear the following:

"INSTRUCTIONS

1. This form must be typed or printed in black so that it is legible on the white, pink, and green copies.
2. Provide the true and complete name of the debtor; initials or abbreviations may not be sufficient to properly index your filing.
3. If the space provided for any items on this form is inadequate, the item(s) may be continued on additional sheets, preferably 8½ inches by 11 inches. Only one copy of the additional sheets needs to be presented to the filing officer.
4. There is an additional fee, which you must include, when additional sheets are attached and/or when more than one debtor's name is listed.
5. This form should be used for filings that are to be made in the real estate records. The following types of collateral and/or transactions are covered by this form:
 - (a) if the collateral is timber to be cut;

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

- (b) if the statement covers minerals or the like (including oil or gas);
- (c) accounts subject to Minnesota Statutes, section 336.9-103, subsection (5); or
- (d) when the statement is filed as a fixture filing and the collateral is goods which are or are to become fixtures, including crops.

DESCRIBE THE REAL ESTATE AFFECTED SUFFICIENT IF IT WERE CONTAINED IN A MORTGAGE OF THE REAL ESTATE TO GIVE CONSTRUCTIVE NOTICE OF THE MORTGAGE UNDER THE LAWS OF THIS STATE.

6. Include the name and address of the drafter. Also, if the debtor listed on the statement is not the record owner of the real estate, include the name of the record owner in the appropriate space.

7. You must indicate if the filing is to be made in the real estate records or both the real estate records and the Uniform Commercial Code.

8. If this filing does not include the debtor's signature, the secured party must sign and indicate on the front the reason for its absence. The possible reasons listed by Minnesota Statutes, section 336.9-402, subsection (2), are that the collateral listed is/was:

- (a) brought into this state already subject to a security interest in another jurisdiction;
- (b) subject to a security interest in another jurisdiction, and the debtor's location has changed to this state;
- (c) proceeds of some collateral in which a security interest was previously perfected in this state;
- (d) the subject of a financing statement which has lapsed; or
- (e) subject to a security interest perfected under a prior name or identity of the debtor.

IF THE REASON FOR NO DEBTOR SIGNATURE IS NOT INCLUDED ABOVE, PLEASE STATE THE REASON ON THE FRONT OF THE FORM. BE ADVISED THAT THE REASON YOU LIST MAY NOT BE CONSIDERED A SUFFICIENT REASON BY A COURT OF LAW.

9. When the form is completed, remove the Secured Party and Debtor copies and send the remaining three (white, pink, and green) copies with interleaved carbon paper intact (if applicable) to the proper filing officer. Generally, statements of this nature will be filed in the Secretary of State's Office only if the debtor is a transmitting utility. However, you should consult Minnesota Statutes as to the proper place to file.

FILING OFFICER ADDRESSES:

Secretary of State
U.C.C. Division
180 State Office Bldg.

OR

County Recorder
Courthouse
_____ County
_____ MN _____

10. The pink copy will be stamped with the filing information and returned to you by the filing officer. If the lien is terminated prior to the regular five-year expiration, the secured party should sign the pink copy and return it to the filing officer so that the original can be removed from the files. There is no fee for filing a termination statement unless it is submitted on a "nonstandard" form or if it is for a fixture filing.

NOTICE: INSTRUCTIONS ARE PROVIDED AS AN ACCOMMODATION AND SHOULD NOT BE CONSTRUED AS A COMPLETE STATEMENT OF THE UNIFORM COMMERCIAL CODE. ALWAYS CONSULT MINNESOTA STATUTES ON THE PROPER PREPARATION AND FILING OF THIS FORM."

8260.0300 STATEMENT OF CONTINUATION, ASSIGNMENT, AMENDMENT, RELEASE, AND TERMINATION: FORM UCC-3.

Subpart 1. Permitted use. This form may be used to continue, assign, amend, release, or terminate a financing statement. The use of any other form will result in a nonstandard fee charge. Only one transaction may be accomplished per form.

Subp. 2. Standard form. To be considered a standard Minnesota statement of continuation, assignment, amendment, release, and termination form, the following specifications must be met:

- A. the size must be 8 inches by 5 inches, excluding the top perforated tab;
- b. the form must be five carbon or carbon-less snap-out.
- C. the first page must be between 24- and 28-pound white ledger paper, printed in black ink; and
- D. the size of type must not be less than 6 point.

Subp. 3. Report form. A standard statement of continuation, assignment, amendment, release, and termination must appear in substantially the following form:

**State of Minnesota Uniform Commercial Code Standard Form UCC-3
Statements of Continuation, Assignment, Release, Etc.**

(Read Instructions on Back)

This STATEMENT is presented to a filing officer for filing pursuant to the Uniform Commercial Code

1. Debtor(s) (Last Name First) and Address(es)	2. Secured Party(ies) and Address(es)
--	---------------------------------------

For
Filing
Officer

3. This statement refers to original Financing Statement bearing File No. _____
Filed with _____ Date Filed _____ 19 _____

- 4. Continuation. The original financing Statement between the foregoing Debtor and Secured Party, bearing file number above, is still effective.
 - 5. Assignment. The Secured Party's right under the Financing Statement bearing file number shown above to the property described in Item 9 has been assigned to the assignee whose name and address appears in Item 9.
 - 6. Amendment. Financing Statement bearing file number shown above is amended as set forth in Item 9.
 - 7. Release. Secured Party maintains a security interest in financing statement bearing file number shown above but releases the collateral shown in Item 9.
 - 8. Termination. Secured Party no longer claims a security interest under the Financing Statement bearing file number shown above.
- 9.

By: _____ Signature(s) of Debtor(s) (necessary only if Item 6 is applicable.)

By: _____ Signature(s) of Secured Party(ies)

(1) Filing Officer Copy - Alphabetical
(Rev. 6/84)

Approved by Secretary of State of Minnesota

Subp. 4. Carbon pages. The remaining four pages are identical to the first except that:

- A. the second page must be green and of 15-pound bond paper;
- B. the third page must be pink and the fourth and fifth pages must be white; all three must be of 12-pound bond paper;
- C. the language at the bottom far left of the second page (green) must read "(2) Filing Officer Copy-Numerical";
- D. the language at the bottom far left of the third page (pink) must read "(3) Filing Officer Copy-Acknowledgement";
- E. the language at the bottom of the fourth page (white) must read at the far left "(4) Secured Party Copy," and across the center and to the right as far as necessary, "Remove this copy and forward balance of form intact for filing"; and
- F. the language at the bottom far left of the fifth page must read "(5) Debtor Copy."

Subp. 5. Instructions. The following must be printed in black ink on the back of page five below the perforated tab:

"INSTRUCTIONS

- 1. Please type this form with black ribbon.
- 2. If the space provided for any item(s) on this form is inadequate, the item(s) may be continued on additional sheets, preferably 8½ inches by 11 inches. Only one copy of such additional sheets needs to be presented to the filing officer. There is an additional fee for the additional sheets.
- 3. If the collateral is timber to be cut or covers minerals or the like (including oil or gas) or accounts subject to Minnesota Statutes, section 336.9-103, subsection (5), or goods which are or are to become fixtures or is crops growing or to be grown, 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.

Subp. 4. Carbon pages. The remaining pages must be identical to the first page except:

- A. Both pages must be of 12-pound bond paper, printed with black ink.
- B. The second page must have "Copy 2" printed in the lower left-hand corner in black ink.
- C. The third page must have "Copy 3" printed in the lower left-hand corner in black ink.

Subp. 5. Instructions. The following must be printed below the perforation on the back of the third page in black ink:

"INSTRUCTIONS

- 1. Please type this form with black ribbon.
- 2. Place an "x" in the appropriate box to indicate a request for copies or for information.
- 3. Place an "x" in the appropriate date-of-search box and fill in "other" if applicable. If no date-of-search is indicated, the information will be given up to the date of processing.
- 4. If information or copies are requested from different filing offices, separate requests must be submitted to each filing officer.
- 5. Sign the form in the space provided.
- 6. Send in only the original and duplicate copies. Retain the third copy for your files. The original will be returned to you with the information or copies requested.
- 7. There is an additional fee if more than one debtor name is listed in box 1. Always provide the complete and full name of the debtor; list all possible ways in which the debtor name may appear, including individual names, corporate names, assumed names, initials, and/or abbreviations.

FILING OFFICER ADDRESSES:

Secretary of State
U.C.C. Division
180 State Office Building
St. Paul, MN 55155

OR

County Recorder
Courthouse
_____ County
_____ MN _____"

8260.0500 TAX LIEN INFORMATION OR COPIES: FORM UCC-12.

Subpart 1. Permitted use. This form is for use in obtaining tax lien information and copies. The use of any other form will result in a nonstandard fee charge.

Subp. 2. Standard form. To be considered a standard Minnesota tax lien information or copies form, the following specifications must be met:

- A. the size must be 8 inches by 5 inches, excluding the top perforated tab;
- B. the form must be three carbon or carbon-less snap-out;
- C. the first page must be between 24- and 28-pound white ledger paper, printed with black ink; and
- D. the size of type must not be less than 6 points.

Subp. 3. Report form. A standard tax lien information or copies form must be in substantially the following form:

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.

FILING OFFICER ADDRESSES:

Secretary of State
U.C.C. Division
180 State Office Bldg.
St. Paul, MN 55155

OR

County Recorder
Courthouse
_____ County
_____ MN _____

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

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

**Department of Revenue
Property Equalization Division****Adopted Rules Relating to the Valuation and Assessment of Electric, Gas Distribution,
and Pipeline Companies (Utility Companies)**

The rule proposed and published at *State Register*, Volume 8, Number 41, pages 2223-2225, April 9, 1984 (8 S.R. 2223) is adopted as proposed.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Administration**Notice of State Surplus Real Property Sale**

In compliance with M.S. 94.09, et seq, the Commissioner of Administration offers for sale by sealed bid a parcel of real estate comprising the former fisheries headquarters in Grand Rapids, Minnesota. Parcel "A" consists of approximately 2.75 acres

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OFFICIAL NOTICES

with 400 feet of frontage on Old Golf Course Road and is improved with a two story office building (44×80) a shed and two fuel tanks. Appraised value and minimum bid is \$129,600.

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

John Chell, Regional Admin.
1201 East Highway 2
Grand Rapids, MN 55744
Tele. (218) 327-1702

The bids will be opened and read aloud publicly at Room G-22 Administration Bldg., 50 Sherburne Avenue, St. Paul, MN on July 3, 1984 at 2:30 p.m.

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

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

1. Payment in full of the balance no later than October 3, 1984, or
2. Payment of the remaining balance in not less than equal annual installments for not to exceed 5 years, with principal and interest payable annually in advance at the rate of 9% per annum on the unpaid balance, by certified check or cashier's check payable to the State of Minnesota on or before June 1 of each year.

For details and bid forms contact:

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

Department of Commerce

Outside Opinion Sought Regarding Proposed Rules Relating to Discrimination Based on Sex or Marital Status Including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing discrimination based on sex or marital status. Promulgation of these rules is authorized by Minnesota Statutes, section 72A.19, subd. 2.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or gobups may submit statements of information or comment orally or in writing to: Richard Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-5689.

All statements of information and comment shall be accepted until July 18, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Outside Opinion Sought Regarding Proposed Rules Relating to Continuing Education for Insurance Agents Including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing continuing education for insurance agents. Promulgation of these rules is authorized by Minnesota Statutes, section 60A.1701, subd. 6(c).

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Barb Lessard, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-6313.

All statements of information and comment shall be accepted until July 18, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Outside Opinion Sought Regarding Proposed Rules Relating to Fees for Rate and Form Filings Including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing fees for rate and form filings. Promulgation of these rules is authorized by Minnesota Statutes, section 60A.14, subdivision 1(c).

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Don Peterson, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-2656.

All statements of information and comment shall be accepted until July 18, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Outside Opinion Sought Regarding Proposed Amendments to Rules Relating to Health Maintenance Organizations Including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate amendments to rules governing health maintenance organizations. Promulgation of these rules is authorized by Minnesota Statutes, sections 14.05 to 14.36.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Dick Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-5689.

All statements of information and comment shall be accepted until July 18, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Energy and Economic Development

Notice of Initial Allocations of Issuance Authority for Calendar Year 1984

Notice to all Industrial Development Bond Issuers and Interested Parties:

The Department of Energy and Economic Development has determined the initial amounts of issuance authority for calendar year 1984 allocated to entitlement issuers submitting certifications of previous use to the Department pursuant to Minn. Laws 1984, ch. 582 § 15, to be codified as Minn. Stat. § 474.18, subd. 2. The initial allocations set forth below are subject to change after enactment of a federal limitation act as defined in Minn. Laws 1984, ch. 582 § 13, to be codified as Minn. Stat. § 474.16

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subd. 5. The procedure for revision of the amounts of issuance authority allocated to entitlement issuers upon enactment of a federal limitations act is set forth in Minn. Laws 1984, ch. 582 § 15, to be codified as Minn. Stat. § 474.18, subd. 2.

The Department of Energy and Economic Development has determined the initial amounts of issuance authority allocated to entitlement issuers based upon the following:

1. The allocations for entitlement issuers and procedures set forth in Minn. Laws 1984, ch. 582. §§ 13, 14 and 15, and Minn. Laws 1984, ch. 585 § 12;
2. The proposed state ceiling for private activity bonds of \$150 multiplied by the population of the State of Minnesota set forth in § 721 of the Tax Reform Bill of 1984, H.R. 4170, as reported by the Ways and Means Committee of the United States House of Representatives on March 5, 1984; and
3. The certifications of previous use submitted to the Department by entitlement issuers.

Since a federal limitation act has not been enacted, there is no aggregate limit on bond issuance authority allocated to the State of Minnesota. However, a figure for the aggregate limit of bond issuance authority allocated to the State of Minnesota for calendar year 1984 was needed in order for the Department to determine the initial amounts of issuance authority allocated to entitlement issuers. The Department has used the appropriate state ceiling set forth in § 721 of the Tax Reform Bill of 1984, H.R. 1470, as reported by the Ways and Means Committee of the U.S. House of Representatives on March 5, 1984. Use of the proposed state ceiling is consistent with the use of the March 5, 1984 Section 721 of H.R. 1470 to define previous use prior to enactment by Congress of the federal limitation act set forth in Minn. Laws 1984, ch. 582 § 13 subd. 4. The \$150 per capita figure set forth in Section 4(a) of Section 721 is the most appropriate since the State of Minnesota did not have an excess bond amount for 1983 making the phase in limitation set forth in Section 4(B) inappropriate. The Department is aware that Section 4(C) provides that the \$150 per capita state ceiling is to be adjusted to \$100 per capita to reflect the termination of the small issue exemption for "calendar years after 1983." The Department did not make this adjustment to the state ceiling since it appears that the reference to 1983 is in error as the small issue exemption does not terminate until 1986 and the Supplemental Report of the Committee on Ways and Means of the U.S. House of Representatives on H.R. 4170 of March 5, 1984 makes it clear that a \$150 per capita state ceiling was intended for calendar year 1984. The Department used the following formula to determine the initial amounts of issuance authority allocated to entitlement issuers set forth below:

Individual allocations to Entitlement Issuers

\$411,866,400 (Total State Allocation to Entitlement Issuers)

\$665,969,743 (Combined 3 year high average for all Entitlement Issuers)

$$\text{equals } 61.8446114\% \times \$ \underline{\hspace{2cm}} \text{ 3 year high average for Entitlement Issuer } \underline{\hspace{2cm}}$$

$$\text{equals } \$ \underline{\hspace{2cm}} \text{ allocation.}$$

The Department included \$79,240,000 in refunding issues of the Port Authority of the City of St. Paul in determining the combined 3 year high average for all entitlement issuers and the allocation for the City of St. Paul. The refunding issues were included based upon language in the March 5, 1984 Supplemental Report of the Committee on Ways and Means of the U.S. House of Representatives on H.R. 4170 and the opinion of bond counsel for the City of St. Paul that such refunding issues were obligations of a type which would be subject to limitation under the terms of Section 721 of the Tax Reform Bill of 1984, H.R. 1470, as reported by the Ways and Means Committee of the U.S. House of Representatives on May 5, 1984.

<u>ISSUER</u>	<u>AMOUNT</u>	<u>ISSUER</u>	<u>AMOUNT</u>
City of Albert Lea	\$ 2,752,085	City of Burnsville	\$11,422,287
City of Alexandria	905,405	City of Cambridge	2,535,629
City of Andover	1,644,036	City of Cannon Falls	1,023,528
City of Apple Valley	3,061,319	City of Chanhassen	669,983
City of Austin	1,700,727	City of Chaska	1,056,512
City of Baxter	651,430	City of Cloquet	1,892,445
City of Becker	22,593,898	City of Columbia Heights	3,301,471
County of Beltrami	1,649,189	City of Coon Rapids	4,236,356
County of Benton	1,979,027	City of Cottage Grove	1,968,720
City of Blaine	2,582,012	City of Dawson	1,168,863
City of Bloomington	10,602,228	City of Duluth	10,743,439
City of Brainerd	1,651,251	City of Eagan	9,764,027
City of Brooklyn Center	7,060,593	City of East Grand Forks	1,133,818
City of Brooklyn Park	4,971,276	City of East Gull Lake	721,520

<u>ISSUER</u>	<u>AMOUNT</u>	<u>ISSUER</u>	<u>AMOUNT</u>
City of Eden Prairie	\$ 9,111,183	City of Owatonna	\$ 968,898
City of Eveleth	876,131	City of Park Rapids	1,216,277
City of Fairmont	2,886,081	City of Pipestone	793,672
City of Faribault	1,824,416	City of Plymouth	2,894,328
City of Farmington	627,723	City of Princeton	706,059
City of Fergus Falls	1,700,727	City of Proctor	4,102,359
City of Fridley	8,024,338	City of Red Wing	2,694,363
City of Golden Valley	2,714,978	City of Richfield	3,556,065
City of Grand Rapids	999,821	City of Rochester	2,570,674
City of Hastings	917,361	City of Rogers	859,640
City of Hibbing	742,135	City of Rosemount	4,681,637
City of Hopkins	1,914,091	City of Roseville	618,446
City of Hutchinson	2,450,077	City of St. Cloud	4,504,349
City of Lakeville	3,345,793	City of St. Louis Park	2,760,331
City of Le Sueur	2,375,245	City of St. Paul	86,699,443
City of Little Canada	1,166,801	City of Sartell	4,452,812
City of Long Prairie	762,750	City of Sauk Rapids	833,871
City of Luverne	721,750	City of Savage	1,237,922
City of Mankato	3,839,519	City of Shakopee	2,533,361
City of Maple Grove	1,723,403	City of Shoreview	1,439,948
City of Maplewood	5,188,969	City of Silver Bay	25,768,589
City of Mendota Heights	3,065,431	City of South St. Paul	1,636,820
City of Minneapolis	44,414,144	City of Springfield	655,553
City of Minnetonka	12,917,277	City of Stillwater	1,661,352
City of Montevideo	761,719	City of Vadnais Heights	1,994,489
City of Moorhead	933,235	City of Waite Park	1,350,274
City of New Brighton	2,009,331	City of West St. Paul	810,164
City of New Hope	1,897,599	City of White Bear Lake	2,744,870
City of New Prague	1,406,965	City of Willmar	2,036,130
City of New Ulm	814,287	City of Winona	3,662,231
City of Northfield	886,439	City of Woodbury	957,560

Department of Energy and Economic Development Development Resources Division

Notice of 1984 Enterprise Zone Applications for Municipalities

The Department of Energy and Economic Development is initiating the 1984 Enterprise Zone application process for competitive city designation. Phase I requires that municipalities complete an eligibility determination worksheet to determine if the municipality meets the Enterprise Zone eligibility criteria. If these criteria are met, the municipality may request an application package, available after June 18, 1984. Phase II involves the preparation of the Enterprise Zone application. Workshops on application preparation will be held in mid-July and technical assistance is available on a limited basis.

Eligibility determine worksheets were sent to all Minnesota municipalities on June 8, 1984.

Completed applications will be accepted by DEED no later than 4:30 p.m., August 31, 1984.

For information on the application process, eligibility determination worksheets, applications or technical assistance contact:

Patrick R. Connoy
Development Resources Division
MN Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
(612) 297-1304

OFFICIAL NOTICES

Department of Health Health Systems Division

Outside Opinion Sought Regarding Proposed Rules Governing Health Maintenance Organizations

Notice is hereby given that the State Department of Health is seeking information or opinions from sources outside the agency in preparing to promulgate rules governing health maintenance organizations, relating to the following:

1. Arrangements for conversion to individual policies, Laws of Minnesota for 1984, Chapter 464, Section 7;
2. Prohibition against discrimination in the application of copayment provisions, Laws, Chapter 464, Section 8, and effective date of such prohibition, Laws, Chapter 464, Section 47;
3. Deposits required to protect health maintenance organizations from insolvency and waiver of or exemptions from the requirement, Laws, Chapter 464, Section 14;
4. Statement of enrollees' rights as consumers, Laws, Chapter 464, Section 17, and information which must contain the rights statement, Laws, Chapter 464, Section 24;
5. Second opinion related to chemical dependency and mental health, Laws, Chapter 464, Section 29 and Chapter 641, Section 4;
6. Health benefits for emotionally handicapped children, Minn. Stat. § 62A.151;
7. Annual reports and extension of the reporting deadline, Minn. Stat. § 62D.08, 7 MCAR § 1.371, MN Rule 4685.2100; and
8. Fees charged for the filing of annual reports and the conducting of examinations, Minn. Stat. §§ 62D.21 and .14, 7 MCAR 1.372, MN Rule 4685.2800.

The promulgation of these rules is authorized by Minnesota Statutes § 62D.20, which permits the commissioner of health to promulgate such reasonable rules and regulations as are necessary or proper to carry out the provisions of sections 62D.01 to 62D.29, including minimum requirements for the provision of comprehensive health maintenance services.

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

Judith M. Walker
HMO Unit
Room 216
Minnesota Department of Health
717 Delaware Street S.E.
Minneapolis, Minnesota 55440

Oral statements will be received during regular business hours over the telephone at 623-5545 and in person at the above address.

All statements of information and comment shall be accepted until July 16, 1984. Any written material received by the State Department of Health shall become part of the record in event the rules are promulgated.

June 8, 1984

Sister Mary Madonna Ashton
Commissioner of Health

Department of Human Services; Department of Health; and Department of Public Safety

Outside Opinion Sought Concerning Merit System Rules

Notice is hereby given that the Minnesota Department of Human Services, the Minnesota Department of Health and the Minnesota Department of Public Safety are considering proposed amendments to those rules affecting their compensation plans and salary schedules.

If adopted, these rule changes will alter the salaries paid to those employees in agencies under the jurisdiction of the Merit System which have not negotiated a compensation plan with the exclusive representative for a bargaining unit.

The proposed rule changes are:

Minnesota Rules, part 9575.0350, subpart 3 and part 9575.1500
Minnesota Rules, part 4670.1320 and parts 4670.4200 to 4670.4240
Minnesota Rules, part 7520.0650, subpart 3 and parts 7520.1000 to 7520.1100

All interested or affected persons are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Ralph W. Corey, Supervisor
Minnesota Merit System
Fourth Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-3996.

All statements of information and comment will be received until further notice. Any written material received by the Department shall become part of the hearing record. The Notice of Hearing on all of the above mentioned rules will be published in the *State Register* in August.

Under the provisions of Minn. Stat. § 10A.01, subd. 11 (1974), any individual representing persons or associations attempting to influence administrative action, such as the promulgation of these proposed rules and amendments, must register with the Ethical Practices Board as a lobbyist within five days of the commencement of such activity by the individual. The Ethical Practices Board is located in Room 41, State Office Building, St. Paul, Minnesota 55155.

Department of Human Services Mental Health Bureau Mental Retardation Division

Outside Opinion Sought Concerning Proposed Rules on Funding for Developmental Achievement Centers and Other Training and Habilitation Services

Notice is hereby given that the Minnesota Department of Human Services is seeking information or opinions from sources outside the agency in preparing to promulgate permanent rule Parts 9525.1200 to 9525.1300 governing the funding for developmental achievement centers and other training and habilitation services. Once the permanent rule is promulgated, it will replace 12 MCAR §§ 2.0300 to 2.0304 (Temporary).

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

The promulgation of this permanent rule is authorized by Minnesota Statutes, section 256B.501, subdivision 10.

The Minnesota Department of Human Services requests information and comments concerning the subject of this rule. Interested or affected persons or groups may submit statements of information or comment orally or in writing.

Written statements of information or comment may be addressed to:

John Anderson
Rulemaking Unit
Special Services Division
Department of Human Services
Centennial Office Building
St. Paul, MN 55155

Oral statements of information and comment will be received over the telephone at 612/297-1489 between the hours of 9:00 a.m. and 4:00 p.m.

All statements of information and comment shall be accepted until further notice. Any written material received by the Minnesota Department of Human Services shall become part of the rule file in the event the rule is promulgated.

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Department of Human Services Social Services Bureau Social Services Division

Outside Opinion Sought Regarding Proposed Rule Governing Indian Relief

Notice is hereby given that the Minnesota Department of Human Services is seeking information or opinions from sources outside the agency in preparing to promulgate a permanent rule governing the Indian Relief Program. Indian Relief is the program under which counties, cities, towns, or any other political subdivision are reimbursed for up to 75 percent of the costs of relief and related services provided to persons of Indian blood. The promulgation of this rule is authorized by Minnesota Statutes, section 245.76, subdivisions 1, 2, and 3.

The Minnesota Department of Human Services requests information and comments concerning the subject matter of this proposed rule. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Marlene Veitch
Rulemaking Unit
Minnesota Department of Human Services
Centennial Office Building—Fourth Floor
St. Paul, Minnesota 55155

Oral statements and comments will be received over the telephone at 612/297-1488 between 8:30 a.m. and 4:00 p.m., Monday through Friday.

All statements of information and comment shall be accepted until further notice. Any written material received by the Minnesota Department of Human Services shall become part of the record in the event the rule is promulgated.

Department of Labor and Industry Prevailing Wage Division

Notice of Intent to Establish Labor Classifications and Certify Wage Rates for Telephone Equipment Installers

The Department of Labor and Industry, Division of Prevailing Wage hereby gives notice of its intent to establish job classifications and certify wage rates to be paid to telephone equipment installers on state funded construction projects.

Interested parties are invited to submit comments concerning this matter within twenty (20) days following the date of this publication.

Comments should be submitted in writing to Donald Jackman, Director of Prevailing Wage, Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101.

Steve Keefe, Commissioner
Department of Labor and Industry

Department of Labor and Industry Prevailing Wage Division

Notice of Prevailing Wage Rates for Highway and Heavy Construction

On June 6, 1984 the commissioner certified prevailing wage rates for the following Minnesota counties: Aitkin, Anoka, Benton, Chippewa, Clay, Cook, Cottonwood, Dakota, Fillmore, Freeborn, Hennepin, Isanti, Kanabec, Koochiching, Marshall, Morrison, Nicollet, Nobles, Rice, Scott, Sherburne, Sibley, Wadena, Waseca and Yellow Medicine.

A copy of the determined wage rates for Minnesota counties may be obtained by writing to the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155. The charges for the cost of copying and mailing are

\$.50 for the first county and \$.30 for any subsequent copies of the same or other counties. For all 87 counties the charge is \$25.00. A \$1.50 handling charge must be included for each order. Minnesota sales tax of 6% must be added to all orders.

A check or money order payable to the State of Minnesota must accompany each request.

Steve Keefe, Commissioner
Department of Labor and Industry

Pollution Control Agency

Notice of Intent to Apply for Final Authorization Under the Resource Conservation and Recovery Act

Notice is hereby given that the Minnesota Pollution Control Agency (hereinafter "MPCA") intends to apply to the United States Environmental Protection Agency for final authorization of the State's hazardous waste program under the Resource Conservation and Recovery Act. Final authorization will allow the State to operate the State hazardous waste program in lieu of the federal program. Currently both State and federal programs are being administered in Minnesota. The State program regulates the identification, generation, transportation, treatment, storage, and disposal of hazardous waste. This program includes requirements for hazardous waste generators, transporters, and facility owners and operators, provisions for permitting hazardous waste facilities, and manifest requirements for tracking hazardous waste shipments.

The MPCA has prepared an authorization application in accordance with 40 Code of Federal Regulations Part 271 Subpart A. To encourage public participation in finalizing the application, the MPCA will hold a public meeting in the Board room of the MPCA, 1935 West County Road B2, Roseville, Minnesota, on Friday, July 20, 1984, at 9:00 a.m. Interested or affected persons or groups may submit comments prior to or during the public meeting. Questions and comments prior to the meeting should be submitted to:

Karen A. Ryss
Division of Solid and Hazardous Waste
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
telephone: 612/296-7776

The authorization application is available for review in the MPCA office in Roseville and in each of the MPCA Regional offices:

Brainerd Regional Office
304 East River Road, #3
Telephone: 218/828-2492

Rochester Regional Office
1200 South Broadway, #140
Telephone: 507/285-7343

Detroit Lakes Regional Office
116 East Front Street
Telephone: 218/847-1519

Marshall Regional Office
Box 286
1104 East College Drive
Telephone: 507/537-7146

Duluth Regional Office
Duluth Government Services Center,
#704
320 West 2nd Street
Telephone: 218/723-4660

Copies of the application may be obtained by contacting Karen Ryss at the address and telephone number listed above. Cost per copy is \$130.00.

Thomas J. Kalitowski
Executive Director

Pollution Control Agency

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

NOTICE IS HEREBY GIVEN that, on July 24, 1984, the Minnesota Pollution Control Agency (hereinafter referred to as "Agency") will hold a regularly scheduled Agency meeting in the Agency Board Room, located at 1935 West County Road B-2, Roseville, Minnesota, 55113. The Agency is currently scheduled to consider, among other things, a proposed revision to the State Implementation Plan (hereinafter referred to as "SIP") for the inclusion of four amended Agency rules. These rules,

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amended as of April 23, 1984, are presently known as: 6 MCAR § 4.0002, Definitions, Abbreviations, Applicability of Standards, Opacity Standard Adjustment, and Circumvention (formerly APC 2); 6 MCAR § 4.4301-4.4305, Air Emission Facility Permits (formerly APC 3); 6 MCAR § 4.4311-4.4321, Indirect Source Permits (formerly APC 19); and 6 MCAR § 4.4001-4.4021, Permit Rule. The SIP currently refers to the Agency air quality rules prior to the April 23, 1984, amendments. The purpose of the SIP revision is to incorporate the amended rules as part of the State Implementation Plan to attain the National Ambient Air Quality Standards.

NOTICE IS ALSO HEREBY GIVEN that the public is invited to attend the Agency meeting on July 24, 1984, and to comment at that meeting on the proposed SIP revision. The meeting will be held in the Agency Board Room, at the address noted above and will begin at 9:00 a.m. Written comments on the proposed SIP revision may be submitted prior to the meeting and should be addressed to Douglas M. Benson, Division of Air Quality, Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota, 55113. Questions regarding the proposed revision or the Agency meeting should also be directed to Douglas M. Benson at the above address or at 612/296-7743. A copy of the meeting agenda and SIP revision may be obtained after July 13, 1984, from Jeanine Willenbring at the address noted above or at 612/296-7351.

Thomas J. Kalitowski
Executive Director

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is July 10, 1984.

CODE ENFORCEMENT ADVISORY COUNCIL has 11 vacancies open immediately for individuals who are involved in the boiler and high pressure steampiping industry and trades. The council shall advise the commissioner on matters pertaining to boiler and high pressure steampiping standards. Members are appointed by the Commissioner of Labor and Industry and receive \$35 per diem. Quarterly meetings. For specific information contact the Code Enforcement Advisory Council, Cynthia Thompson, Dept. of Labor and Industry, 444 Lafayette Rd., St. Paul 55101; (612) 297-3467.

COSMETOLOGY ADVISORY COUNCIL has 2 vacancies open immediately for 1 cosmetologist and 1 representative of public school. The council advises the Commissioner of Commerce on matters relating to cosmetology services and on licensing procedures for cosmetologists. Members are appointed by the Commissioner of Commerce and are compensated for expenses. For specific information contact the Cosmetology Advisory Council, Barbara M. Lessard, Dept. of Commerce, 500 Metro Square Bldg., St. Paul 55101; (612) 297-4630.

HAZARDOUS WASTE MANAGEMENT PLANNING COUNCIL has 18 vacancies open immediately for 6 citizen representatives, 6 local government representatives, and 6 industry representatives. The council makes recommendations to the Waste Management Board on planning for and siting of hazardous waste processing and disposal facilities. Members are appointed by the Chairperson of the Waste Management Board. Members are compensated for expenses. For specific information contact the Hazardous Waste Management Planning Council, 123 Thorson Bldg., 7323 58th Ave. N., Crystal 55428; (612) 536-0816.

MINNESOTA ACADEMIC EXCELLENCE FOUNDATION has 1 vacancy open for a business member. The foundation shall promote academic excellence in Minnesota public schools through a public-private partnership (a nonprofit organization). Members are appointed by the Governor. For specific information contact the Minnesota Academic Excellence Foundation, Roberta Schneider, 130 Capitol, St. Paul 55155; (612) 296-0055.

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS has 1 vacancy open for a public member. The board licenses administrators of nursing homes, board/care homes and mental retardation facilities; conducts studies of nursing home administration; approves continuing education programs for administrators; investigates complaints and allegations of rule violations. Members are appointed by the Governor, must file with EPB. Members receive \$35 per diem plus expenses. For specific information contact the Board of Examiners for Nursing Home Administrators, 717 Delaware St. S.E., Mpls 55416; (612) 623-5406.

METROPOLITAN TRANSIT COMMISSION has 3 vacancies open immediately. 1 member must be a resident of Minneapolis; 1 member must be a resident of St. Paul and 1 member must reside in the service area of the commission outside of Minneapolis and St. Paul. Each must have management experience. Members may not during term of office be a member of the Metropolitan Council, Regional Transit Board, the Metropolitan Waste Control Commission, the Metropolitan Sports Facilities Commission, Metropolitan Airports Commission or any other independent regional commission, board of agency or hold any

judicial office. Members are appointed by the Regional Transit Board. Members receive \$50 per diem plus expenses. The commission will provide transit services within a specified service area of the metropolitan area in conformance with the implementation plan of the regional transit board. For specific information contact the Metropolitan Council, Bill Lester, 300 Metro Square Bldg., St. Paul 55101; (612) 291-6630.

SMALL BUSINESS PROCUREMENT ADVISORY COUNCIL has 1 vacancy open immediately for a member. The council advises the Commissioner of Administration on the small business procurement programs; reviews complaints from vendors, and reviews compliance reports. Members are appointed by the Governor. Members receive no compensation. For specific information contact the Small Business Procurement Advisory Council, Roberta Schneider, 130 Capitol, St. Paul 55155; (612) 296-0055.

TASK FORCE ON SEXUAL EXPLOITATION BY THERAPISTS AND COUNSELORS is seeking 18 members who are broadly based, including representatives of professional organizations, regulatory agencies, agencies and individuals involved in counseling, state agencies, and consumers. The task force shall develop educational plans for clients, counselors, employers, and training institutions; study regulation of professionals, improvement of complaint rules and procedures and changes in the civil and criminal codes as they relate to sexual exploitation by therapists and counselors; and develop legislative recommendations. Members are appointed by the Commissioner of Corrections. Members receive \$35 per diem. For specific information contact the Task Force on Sexual Exploitation By Therapists and Counselors, Dept. of Corrections, Peggy Spektor, 430 Metro Square Bldg., St. Paul 55101; (612) 296-7084.

Sentencing Guidelines Commission

Notice of Public Hearing to Consider Modifications to Sentencing Guidelines

The Minnesota Sentencing Guidelines Commission will hold a public hearing on Thursday, July 19, 1984, at 5:30 p.m., in Room B of the Metropolitan Council, 3rd Floor, Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101. The public hearing is to consider proposed modifications to the sentencing guidelines primarily resulting from new legislation.

Copies of the proposed modifications are available, free of charge, by contacting the Minnesota Sentencing Guidelines Commission at Suite 598 Metro Square Building, 7th and Robert Streets, St. Paul, MN 55101, or by calling (612) 296-0144.

All interested persons are encouraged to attend the hearing and offer comments. Persons wishing to speak may register in advance by contacting the Commission staff at the above address/phone number.

The Commission will hold the record open for five days after the public hearing to accept additional written comment on the proposed modifications. On July 26, 1984, the Commission will meet to formally adopt or reject the proposed modifications. If adopted, the modifications will become effective August 1, 1984, and will have the same force and effect as the language it is replacing.

Proposed Modifications

Section II.C. (Presumptive Sentence) is modified as follows:

The offense of conviction determines the appropriate severity level on the vertical axis. The offender's criminal history score, computed according to section B above, determines the appropriate location on the horizontal axis. The presumptive fixed sentence for a felony conviction is found in the Sentencing Guidelines Grid cell at the intersection of the column defined by the criminal history score and the row defined by the offense severity level. The offenses within the Sentencing Guidelines Grid are presumptive with respect to the duration of the sentence and whether imposition or execution of the felony sentence should be stayed. (Rev. Eff. 8/1/82)

The line on the Sentencing Guidelines Grid demarcates those cases for whom the presumptive sentence is stayed. For cases contained in cells below and to the right of the line, the sentence should be executed. For cases contained in cells above and to the left of the line, the sentence should be stayed, unless the conviction offense carries a mandatory minimum sentence.

When the current conviction offense is burglary of an occupied dwelling (Minn. Stat. § 609.582, subd. 1(a)) and there was a previous adjudication of guilt for a felony burglary that was imposed before the current offense occurred, the presumptive disposition is Commitment to the Commissioner of Corrections. The presumptive duration of sentence is the fixed duration indicated in the appropriate cell of the Sentencing Guidelines Grid.

Every cell in the Sentencing Guidelines Grid provides a fixed duration of sentence. For cells below the solid line, the guidelines provide both a presumptive prison sentence and a range of time for that sentence. Any prison sentence duration pronounced by the sentencing judge which is outside the range of the presumptive duration is a departure from the guidelines,

OFFICIAL NOTICES

regardless of whether the sentence is executed or stayed, and requires written reasons from the judge pursuant to Minn. Stat. § 244.10, subd. 2, and Section E of these guidelines.

(Rev. Eff. 11/1/83)

Section V (Offense Severity Reference Table) is modified as follows:

V Criminal Sexual Conduct 3—609.344(e)

IV Criminal Sexual Conduct 4—609.345 (e)

III Theft of a Firearm—609.52, subd. 3(3) (e)

II Accidents—169.09, subd. 14 (b) (1)

I Accidents—169.09, subd. 14 (b) (2) (3)
Obtaining or Retaining a Child Depriving Another of Custodial or Parental Rights—609.26

Theft Related Offense List is modified as follows:

Theft of Telecommunications Services—609.52, subd. 2 (14)

Department of Transportation

Proposed Acquisition of Abandoned Burlington Northern Railroad Company Right of Way Extending on the East End from the Easterly Edge of the Minnewaska Golf Club in the City of Glenwood Approximately Six Miles Westerly to that Point Where the Railroad Right of Way Crosses Trunk Highways 28 and 29 in the County of Pope, Minnesota

Order for Hearing and Notice Thereof

IT IS HEREBY ORDERED, and notice is hereby given that a contested case hearing concerning the above-entitled matter will be held on July 12, 1984 at 1:00 p.m. in the City Hall, City of Glenwood, 137 E. Minnesota Street, Glenwood, Minnesota.

The hearing will be held before Mr. Bruce Campbell, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415 (Telephone: 612-341-7602) an Administrative Law Judge appointed by the Chief Administrative Law Judge of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minnesota Statutes §§ 14.02 through 14.70 and Minnesota Rules §§ 1400.5100 through 1400.7000. Questions concerning the issues raised in this order or concerning informal disposition or discovery may be directed to Mr. Donald Muetting, Special Assistant Attorney General, Transportation Building, Office of the Attorney General, 515, Saint Paul, Minnesota 55155 (Telephone: 612-296-3369).

The purpose of the hearing is to ensure that under the provisions of Minnesota Statutes § 222.63 and Minnesota Rules § 8830.5820 through 8830.5840 all parties and potential parties of interest are given an opportunity to be heard on the proposed acquisition by the Commissioner of the Minnesota Department of Transportation of abandoned Burlington Northern Railroad Company right of way extending on the east end from the easterly edge of the Minnewaska Golf Club in the City of Glenwood approximately six miles westerly to that point where the railroad right of way crosses Trunk Highways 28 and 29 in the County of Pope, Minnesota. This rail line is eligible for the State rail bank program because it is a corridor for a potential transportation use, such as a highway.

Objections to the proposed action having been received, the Commissioner is required to proceed in the manner provided for in a contested case hearing.

Any person who desires to become a PARTY to this matter must submit a timely PETITION TO INTERVENE to the Administrative Law Judge pursuant to Minnesota Rules § 1400.6200, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. The notice of intervention must be served upon other parties to the proceeding.

ALL PARTIES ARE ADVISED that if a party intends to appear at the hearing scheduled for July 12, 1984, the Notice of Appearance form enclosed with this order must be completed and returned to the Administrative Law Judge at least 10 days before the hearing date. **SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THE PETITION MAY BE TAKEN AS TRUE.**

The above cited procedural rules are available at the Office of Administrative Hearings or may be purchased from the State Register and Public Documents Division of the Department of Administration, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155 (Telephone: 612-297-3000). They provide generally for the procedural rights of the parties including: rights to advance notice of witnesses and evidence, right to a prehearing conference, rights to present evidence and cross-examine witnesses, and right to purchase a record or transcript. Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence.

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents. If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Administrative Law Judge at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

It is hereby ordered that this notice be published simultaneously in the *State Register* and one newspaper of general circulation in the area once a week for two consecutive weeks.

June 8, 1984

Richard P. Braun
Commissioner

Notice of Appearance

Date and Time of Hearing: July 12, 1984 at 1:00 P.M.

Name and Telephone Number of Hearing Examiner:

Bruce Campbell
Office of Administrative Hearings
400 Summit Bank Building
310 South Fourth Avenue
Minneapolis, Minnesota 55415
341-7602

TO THE ADMINISTRATIVE LAW JUDGE:

You are advised that the party named below will appear at the above hearing.

Name of Party: _____

Address: _____

Telephone Number: _____

Party's Attorney or Other Representative: _____

Signature of Party or Attorney: _____

Date: _____

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.

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-2513. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Procurement Division

Commodities Contracts Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
26-071-13931	Magnet Cyrostat System	Mankato University	Mankato	Contact buyer
Contract	Offset Supplies	Various	Various	\$70,000-\$75,000
Contract	Crushed Rock Salt	Various	Various	\$2,500,000-\$3,000,000
55-103-03243	Baking & Roasting Oven	Moose Lake State Hospital	Moose Lake	Contact buyer
29-000-35707	Fish Toxicant	Natural Resources	St. Paul	Contact buyer
27-153-42405	Spectrophotometer	N. Hennepin Community College	Minneapolis	Contact buyer
26-073-16296	Microscope	St. Cloud University	St. Cloud	Contact buyer
04-361-22768	Liquid Chromatography	Agriculture	St. Paul	Contact buyer
26-070-10365	Spectrophotometer Microcomputer	Bemidji University	Bemidji	Contact buyer
78-550-13903	Upgrade X-Ray Equipment	MN Correction Facility	Lino Lakes	Contact buyer
26-073-16274	Linear Recorder	St. Cloud University	St. Cloud	Contact buyer
10-200-02144	Purchase of Portable Computers	Dept. of Finance	St. Paul	Contact buyer
55-105-06494	Hematology Analyzer	St. Peter State Hospital	St. Peter	Contact buyer
Contract	Preventative Maintenance & Upgrading of CCTV System	MN Correctional Facility	Lino Lakes	\$10,000-\$15,000
Contract	Preventative Maintenance & Repair of Vindicator & Microwave Security System	MN Correctional Facility	Lino Lakes	\$1,500-\$2,000
79-500-02628-2633, 79-500-02638-2641, Contract	Rubbish Disposal Various DPT Locations	Transportation	St. Paul	Contact buyer
26-071-13729	Vacuum Pumping Station	Mankato University	Mankato	Contact buyer
27-150-40713	Oscilloscope	Mesabi Community College	Virginia	Contact buyer
12-200-79085	Recorder-Dual Pen	Health	Minneapolis	Contact buyer
55-101-05844	Flame Photometer	Fergus Falls	Fergus Falls	Contact buyer
07-300-29407	Co-Oximeter	Public Safety Crime Bureau	St. Paul	Contact buyer
32-200-11248	Carbon Monoxide Monitoring System	Pollution Control Agency	Roseville	Contact buyer
01-300-29545	Gas Chromatograph	Public Safety Crime Bureau	St. Paul	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
27-150-40709	Misc. Lab Supplies	Mesabi Community College	Virginia	Contact buyer
02-307-44097	4 W. D. Tractor	Administration/Plant Management	St. Paul	Contact buyer
Various	Pharmaceuticals	Various	Various	Contact buyer
Various	Pharmaceuticals	Various	Various	Contact buyer
79-000-41837	Seismograph	Transportation	St. Paul	Contact buyer
12-200-78663	Perchloric Acid Hood	Health	Minneapolis	Contact buyer
29-000-36046	Densified Peat Pellets	Natural Resources	Grand Rapids	Contact buyer
55-201-05849	Lounge furniture	Cambridge State Hospital	Cambridge	Contact buyer
27-156-40599	Typewriters	Normandale Community College	Bloomington	Contact buyer
07-500-29803	Purchase of Microcomputer System	Public Safety	St. Paul	Contact buyer
27-000-44223	Repair of Trane Centrifugal Chiller	Lakewood Community College	White Bear Lake	Contact buyer
37-030-94928, 778372	Statewide Assessment Test Booklets, Answer sheets, and Header sheets	Education	St. Paul	Contact buyer
Various	Office Chairs	Transportation	St. Paul	Contact buyer
27-153-42401	Oscilloscopes	N. Hennepin Community College	Minneapolis	Contact buyer
27-148-42016 & 42006	Oscilloscope	Rochester Community College	Rochester	Contact buyer
27-152-42806	Oscilloscope	Anoka Ramsey Community College	Coon Rapids	Contact buyer
27-156-40593	Oscilloscope	Normandale Community College	Bloomington	Contact buyer
29-000-35916 & 29005-06804-05	Lumber & Hardware	Natural Resources	St. Paul	Contact buyer
26-071-14037	Spectrum Analyzer	Mankato University	Mankato	Contact buyer
27-148-42018	Function Generator	Rochester Community College	Rochester	Contact buyer
27-153-42402	Mainframe	N. Hennepin Community College	Minneapolis	Contact buyer
02-410-44529	Lease/Purchase of Computer Processor	Information Service Bureau	St. Paul	Contact buyer
12-200-78537	Hygiene Calibrator	Health	Minneapolis	Contact buyer
79-000-41821	Vacuum & Jet Sewer Cleaning Machine Addendum #1	Transportation	Golden Valley	Contact buyer
27-000-41433 & 41429	Repair & Refinish Gym Floors	Community College	Same	Contact buyer
07-200-29755	Communication Equip.	Public Safety	St. Paul	Contact buyer

Contact the receptionist at 296-2513 for referral to specific buyers.

STATE CONTRACTS

Capitol Area Architectural and Planning Board

Request for Proposals for Parking Studies for State Capitol Area

The Capitol Area Architectural and Planning Board (CAAPB) is requesting proposals from planning and/or engineering firms or associations of firms capable of conducting various feasibility studies and developing a parking plan for the Minnesota State Capitol Area.

The CAAPB is seeking the assistance of a firm or association of firms ("consultant") to conduct preliminary feasibility studies to determine current and future parking demand in the Capitol Area of St. Paul, and to develop alternative strategies and solutions which will meet that demand in a cost-effective and coordinated manner compatible with the CAAPB's Comprehensive Plan.

The consultant shall also perform assessment and selection studies to determine optimum sites and types of parking facilities, and shall prepare corresponding project cost estimates, and revenue and operating expense projections.

The consultant shall review any proposed strategies and solutions with various public and private groups to solicit their advice and cooperation. In addition the consultant shall confer with various city and state agencies and private property owners in the Capitol Area to determine the feasibility of any cooperative parking strategies and/or joint-use facilities.

Based upon these studies and public/private sector response, the consultant shall submit a report by December 1, 1984, recommending a comprehensive parking program for the Capitol Area, and shall be available for subsequent public presentations and legislative hearings.

At this time it is estimated that the consultant's fee for these services and report will be approximately \$40,000.

For a copy of the complete request for proposal and consultant selection criteria, interested individuals should contact, and proposals should be addressed to: The Capitol Area Architectural and Planning Board, Room 122 State Capitol, St. Paul, Minnesota 55155 (612/296-7138). All proposals must be received by 4:30 a.m., July 2, 1984.

Department of Energy and Economic Development Development Resources Division

Notice of 1985 Community Development Corporation Application Process for Administration and Venture Capital

The Department of Energy and Economic Development is initiating the 1985 Community Development Corporation (CDC) administration and venture capital application process.

Community Development Corporations receiving state funding during 1984 are eligible for funding assistance and should contact the Department of Energy and Economic Development (DEED) regarding applications, funding limits and contracting procedures.

Community Development Corporations which did not receive state financial assistance during 1984 should contact DEED regarding eligibility.

Technical assistance will be available to CDC's through the application period.

Completed applications will be accepted by DEED no later than 4:30 p.m., September 15, 1984.

For information on the application process, funding and technical assistance contact:

Patrick R. Connoy
Development Resources Division
MN Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 297-1304

Department of Energy and Economic Development Development Resources Division

Request for Proposals for Feasibility Study of Value Added Rough Fish Processing

The Minnesota Department of Energy and Economic Development is requesting proposals from qualified individuals interested in studying the feasibility of value added rough fish processing. This request does not obligate the State to complete the project and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

This proposal may be terminated when activities A & B are completed if the results do not support the economic viability of the availability of Minnesota fish resources in the national market. However, if the project is completed and the report identifies a market opportunity, this project may be expanded into two additional phases: Phase II Market Feasibility, and Phase III Business Plan.

Proposals are being requested to complete the following major project activities:

- A. Consult with potential fish entrepreneurs and fish processors on requirements for fish processing plants.
- B. Meet with and interview commercial fishermen on under-utilized fish potential as a business enterprise for them in selected areas of Minnesota.
- C. Ascertain available data and conduct literature search on under-utilized fish populations in Minnesota.
- D. Determine seasonality of various species of Minnesota under-utilized fish.
- E. Estimate price of selected fish species and products in various forms at: the lakeshore; at the processing plant door near point of catch; and, after initial processing at the processing plant door, delivered to "second step" processors.
- F. Determine types of Minnesota under-utilized fish to be considered for taste-testing, based upon quantities available in Minnesota and preliminary feasibility.
- G. Prepare a written document analyzing the findings of the above activities.

It is estimated that the cost of the project study need not approach, but shall not exceed \$30,000 and will be completed no later than October 15, 1984. Proposals should be received by the Department of Energy and Economic Development no later than 4:30 p.m., July 6, 1984.

The formal request for proposal, which more completely explains the scope of the work, may be requested. Direct inquiries to:

Patrick R. Connoy
Development Resources Division
MN Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
(612) 297-1304

Department of Energy and Economic Development Governor's Council on Rural Development

Request for Proposals to Produce the Annual Report for Fiscal Year 1984 for the Governor's Council on Rural Development's Program Activities

The Minnesota Department of Energy and Economic Development/Governor's Council on Rural Development (MN DEED/GCRD) is requesting proposals from qualified individuals interested in working with MN DEED/GCRD on a project to produce the Annual Report of GCRD program activities for fiscal year 1984.

The Annual Report will detail all the major in-house activities performed by the Council as well as all the funded projects. Between 500 and 1,000 copies will be printed. Proposals are being requested to complete the following major project activities:

- A. Compile information on all Council activities over the last year.
- B. Put the data on these activities into an easily understandable narrative style.
- C. Perform the role of a managing editor in selecting and working with a graphic designer and the state printer.

STATE CONTRACTS

It is estimated that the cost of this activity need not approach but shall not exceed \$12,000. Proposals should be received by MN DEED/GCRD no later than 4:30 p.m. Friday, July 13, 1984. The formal Request for Proposals' document may be requested and inquiries should be directed to:

Jane Stevenson, Program Manager
Governor's Council on Rural Development
Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
Phone: (612) 296-3591

Housing Finance Agency

Request for Proposals for Development of Information Architecture

The Minnesota Housing Finance Agency is requesting proposals for consulting services to help the Agency develop an information architecture. An information architecture means a framework that describes the relationships among the Agency's mission and goals, the activities carried out to accomplish those goals, the information required in order to carry out the activities, and the data and processes needed to generate and present the necessary information.

The Request for Proposals does not obligate the Agency to complete the project, and the Agency reserves the right to cancel the solicitation if it is considered to be in its best interests.

AGENCY CONTACTS

Prospective responders who would like to receive the detailed Request for Proposals may call or write:

David A. Ruch
Manager, Information Systems
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, MN 55101
(612) 296-9816

Please note: Other Agency personnel are not allowed to discuss the project with responders before the submittal of proposals deadline.

SUBMISSION OF PROPOSALS

All proposals must be sent to and received by:

David A. Ruch
Manager, Information Systems
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, MN 55101

not later than 4:00 p.m. Central Daylight Time on Monday, July 9, 1984. Proposals that are mailed must be mailed return receipt requested, and proposals that are hand-delivered will be acknowledged by receipt when delivered.

Late proposals will not be accepted. Two (2) copies must be submitted. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. Each copy must be signed by an authorized member of the firm. Prices and terms of the proposal must be valid for the length of the project.

COMPLETION DATE

The service described will be completed by December 31, 1984.

Metropolitan Council

Invitation for Sealed Bids for Printing Truckers' Guide

The Metropolitan Council, 300 Metro Square Bldg., St. Paul 55101, is requesting sealed bids to print the Truckers' Guide.

Specifications for printing the publication can be obtained by contacting Nadine Farrington, publications unit, at 291-6478. Estimated cost will be between \$5,000 and \$15,000.

Sealed bids will be accepted by the Metropolitan Council until 4 p.m. June 20, 1984. The Council's purchasing officer will open the sealed bids publicly in the Council offices at 10 a.m. June 21, 1984.

All sealed bids shall be marked "Bids to print Truckers' Guide—to be opened on June 21, 1984." Bids shall be mailed to Nadine Farrington, Communications Department, Metropolitan Council, 300 Metro Square Bldg., St. Paul 55101.

The Metropolitan Council reserves the right to reject any or all bids, and to waive any minor irregularity or deviation from the specifications.

June 5, 1984

Sandra S. Gardebring, Chair

Minnesota Job Skills Partnership

Request for Grant Proposals for Business Training Programs

The Minnesota Job Skills Partnership Board solicits grant proposals from educational and other non-profit organizations for customized training programs designed for specific businesses. Proposed range for individual grants is \$10,000-\$100,000. To receive consideration at the August 20 meeting, proposals must be submitted by July 23. For additional information, contact:

Monica Manning
Minnesota Job Skills Partnership
406 Capitol Square Building
St. Paul, MN 55155
(612) 296-0388

State Designer Selection Board

Request for Proposals for State Projects

TO ARCHITECTS AND ENGINEERS REGISTERED IN MINNESOTA:

The State Designer Selection Board has been requested to select designer for a number of State Projects. Design firms who wish to be considered for this project should submit proposals on or before 4:00 P.M., July 11, 1984, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

1. Six copies of the proposal will be required.
2. All data must be on 8½" × 11" sheets, soft bound.
3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.
4. The proposal should consist of the following information in the order indicated below:
 - a) Number and name of project.
 - b) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc.
 - c) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If the applicant chooses to list projects which are relevant in type, scale, or character to the project at hand, the person's role in the project must be identified.
 - d) A commitment to enter the work promptly and to assign the people listed in "c" above and to supply other necessary staff.

STATE CONTRACTS

e) A list of design projects in process or completed in the three (3) years prior to the date of this request for agencies or institutions of the State of Minnesota, including the University of Minnesota, by the firm(s) listed in "b" together with the approximate fees associated with each project.

f) A section of not more than fourteen (14) faces containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described.

The proposal shall consist of no more than twenty (20) faces. Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.

5. In accordance with the provisions of Minnesota Statutes, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. Your proposal will not be accepted unless it includes one of the following:

a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or

b) A statement certifying that your firm has a current certificate of compliance issued by the Commissioner of Human Rights; or

c) A statement certifying that your firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months.

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

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

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

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

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

7a) PROJECT—20-84

**Classroom Laboratory Building
Mankato State University
Mankato, Minnesota**

Project Scope: Plan, construct, equip and furnish a classroom laboratory building.

Purpose and Type of Project: In view of the severe shortage of classroom space on the campus and in light of the rapidly growing importance of the computer to modern life, Mankato State University proposes a new instructional building that will answer both needs. This building will provide twelve much needed classrooms, as well as the individual student computer labs, faculty offices and support needed by the Computer Science department. In addition, the building will also house the School of Nursing and a significant portion of the faculty offices required by the Mathematics department.

Site: The building located on the Mankato State University Campus will be situated between the northwest corner of Trafton Science Center and Nelson Hall. Should soil or other tests show this site to be unsuitable, the area between Trafton Hall and Warren Street would be considered as an alternative.

Appropriation: \$5,400,000.00 for construction and fees.

Program Summary: Specific project requirements include:

<u>TYPE OF SPACE</u>	<u>NUMBER</u>	<u>ESTIMATE SIZE/CAPACITY</u>
Classrooms	12	14,000 sq. ft.
Ind. Study Labs		
—St. Computer Labs (400 stations)		(11,200)
—Nurs. Media View Lab		(1,250)
Class Lab	1	2,600 sq. ft.
Research Lab (Comp.Sci.)	1	250 sq. ft.
Conf. & Sem. Rooms (Nursing)		1,750 sq. ft.
Faculty Offices	75	8,250 sq. ft.
Dept. Office (Math & Comp Sci)	1 complex of offices	1,600 sq. ft.
Admin Off. (School of Nursing)	1 complex of offices	1,000 sq. ft.
Estimated net assignable square footage	42,000 NASF	
	— 57,922 GSF	

Building Construction: It is anticipated that the building will be connected to Trafton Science Center and be constructed of poured reinforced concrete with a brick facade. Classrooms, laboratories and offices will require electrical service and coaxial cable sufficient to support extensive network use of computers and computer terminals.

A student computer laboratory complex to accommodate up to 400 work stations will require raised flooring. The design of the heating, air-conditioning, and ventilating system should recognize the impact of computers and related electronic equipment.

The School of Nursing is to be accommodated within the building (est.sq.ft. Nursing = 9,350). Nursing laboratories are to be equipped with electricity, water, and coaxial cable, and designed to simulate hospital rooms.

Architectural Responsibilities: Overall, the architect will have responsibility for the planning, design, execution, supervision, and approval of the project.

The architect will be responsible for preliminary schematics, cost estimates, project design, working drawings, bid specifications and drawings, bid evaluation, and project supervision. The architect will also, with the owner's approval, prepare change orders, authorize payments and approve completion of the project.

Architectural Fee: Legislative appropriation assumed fees at 6% of construction costs.

University Contact:

Name: Vic Colway,
Vice President for Fiscal Affairs
Address: Box #1, Mankato State University
Mankato, Minnesota 56001
Phone: (507) 389-6622

State University System Contact:

Name: David Hardin
Address: 555 Park Street, Suite 230
St. Paul, Minnesota 55103
Phone: (612) 296-6624

7b) PROJECT—21-84

D.N.R. Regional/Area Office
Bemidji, Minnesota

a) DESCRIPTION OF THE PROJECT:

1. General. The proposed Office/Storage Facility consists of:

A) OFFICE & RELATED SPACES

1) Regional Offices	— 9,350	Total Gross
2) Area & District Offices	— 5,719	Total Gross
3) General or Ancillary Space Needs	— 4,505	Total Gross

STATE CONTRACTS

B) SUPPLEMENTARY SPACES

1) Special Space Area (Laboratory) — 875 S.F.

C) STORAGE SPACES

1) Cold Storage (Specific Use) — 7,972 S.F.

2) Cold Storage (General Use) — 8,000 S.F.

D) SITE WORK

1) Site Work @ Building Addition including:

Bituminous Roads — 8,000 S.F.

Parking — 18,000 S.F.

2) Site Work @ Storage Area/Boneyard

Bituminous Roads & Parking — 21,800 S.F.

Fencing — 200 Lin. Ft.

2. **Site Location:** Adjacent to the existing Regional Headquarters Building Bemidji, Minnesota

3. Project Scope & Design:

Department employees at Bemidji are presently officed at two locations in four separate buildings. Present offices are inadequate in size to provide the space needed for all personnel assigned to this location. The proposed plan will consolidate all DNR divisions assigned to Bemidji at a single location including regional, area and district personnel. It will also consolidate district personnel from one or two additional forestry districts.

The existing Regional Office Building site has adequate space to allow for the construction of a separate new building or an addition to the existing building of a size described herein. The Department shall utilize the professional services of a designer to design a building in accordance with legislative appropriations in two phases:

PART I. (Prior to Construction)

- 1) Space programming and Schematic Design
- 2) Design Development
- 3) Construction Document preparation

PART II. (After Appropriation) for building construction

- Bidding and Negotiations
- Contract Administration

4. **Estimated Project Construction Cost: \$1,254,910.00**

B) WORK TO BE PERFORMED BY THE DESIGNER

The work shall be performed in accordance with AIA Doc. 141 and shall include the following architectural and engineering services:

- 1) Develop a program of space needs and understand site and physical limitations.
- 2) Work with the Regional and District Administrative staff to resolve diverse interests and needs into a single cohesive design statement.
- 3) Preparation of a series of design schematics which represent the program input and offer a positive 3-dimensional solution to the Department's Regional, District, and Area needs.
- 4) Develop the selected schematic documents.
- 5) Prepare the construction documents for the project.

PLANNING & CONSTRUCTION SCHEDULE:

Planning on this project will begin in the summer of 1984, immediately upon selection of a designer. A tentative completion date for the construction documents—February, 1985. The construction phase of work shall be contingent upon approval of construction budget at the next legislative session and construction could start as early as spring—1985.

FEES:

Legislative appropriation assumed the fees for this project to be approximately 8% of construction cost. This is based on figures developed by the Department of Natural Resources, Bureau of Engineering in the spring of 1984 based on regional program input.

Questions relative to this project may be referred to Jim Whipkey at (612) 296-2119.

7c) PROJECT—22-84

Electrical Engineering and Computer Science Building
University of Minnesota—Minneapolis
Minneapolis, Minnesota

Description:

This building will be located on the Minneapolis East Bank Campus in the area of the Institute of Technology. It will house major portions of the Electrical Engineering and Computer Science departments and supporting classroom, and student spaces and will be connected by pedestrian skyway links to the main I.T. complex.

The facility construction budget is \$30,000,000.00. It will contain approximately 240,000 GSF and 139,250 ASF broken down roughly as follows:

Electrical Engineering	— 89,500 ASF
Computer Science	— 33,000 ASF
Classrooms and Student Space	— 16,750 ASF

The division of program space will be proportioned in approximately the following percentages:

Administration and Faculty Office Space	— 30%
Laboratories and Support Space	— 60%
Classroom and Student Space	— 10%

A modest portion of the total laboratory space will be isolated from vibration. There will also be class 1000 clean space (6,000 ASF) and class 100 clean space (2,000 ASF).

A description of the facilities section from the preliminary building program document is included for further reference.

Consultant Services:

The consultant will be required to prepare, in cooperation with the owner's Building Advisory Committee and for the owner's approval, schematic design presentation proposals, design development drawing and specifications and construction drawings and specification for public bidding. Construction phase services will include shop drawing reviews, construction observation and the production of a set of "as-built" drawings.

The tight time schedule will require a fast track construction process and may require working with either a construction manager or pre-selected prime contractors through development of design to completion of construction.

Fees:

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

Questions concerning this project may be referred to Clint Hewitt at (612) 373-2250.

7d) PROJECT—23-84

Tuckpointing and Lock Replacement
Minnesota Correctional Facility—Stillwater
Stillwater, Minnesota

a) Description of the Project:

1) **General:** General, mechanical and electrical construction including fire protection and detection systems, wheelchair shower, visitor toilet, exit lighting, railings around window wells; major tuckpointing of Cell Halls A and, Industry buildings and lock replacement in Cell Hall B.

2) **Site Location:** Stillwater, Minnesota.

3) **Estimated Project Construction Cost:** \$790,000.00

b) **Work to be performed by the Architect:** The work includes the verification of the scope of work and budget; the preparation of the contract documents and estimated construction costs; prepare bid documents and make recommendations, provide general observation of the construction and administrate the construction contract.

STATE CONTRACTS

c) **Architects Fee for the Work:** The estimated architectural/engineering fee for this work is 8% of the construction cost.

d) **Other Consideration:**

1) The State desires that the documents be completed so the project can be bid by February 1985.

2) The selected architectural firm should be able to demonstrate previous experience in the area of masonry repair and restoration.

Questions concerning this project may be referred to Lyle Nelson at (612) 296-4644.

7e) PROJECT—24-84

**Repair and Replacement Project's
Minnesota Correctional Facility—St. Cloud
St. Cloud, Minnesota**

a) **Description of the Project:**

1) **General:** General, mechanical and electrical construction including roof replacement of the Administration and Power Plant buildings, water and sewer line replacement in two shops and the Administration building, light fixture replacement in 670 cells, replacement of 60 doors and lock in the School building and tuckpointing of the perimeter wall and various structures.

2) **Site Location:** St. Cloud, Minnesota

3) **Estimated Project Construction Cost:** \$521,000.00

b) **Work to be performed by the Architect:** The work includes the verification of the scope of work and budget; the preparation of the contract documents and estimated construction costs; prepare bid documents and make recommendations, provide general observation of the construction and administrate the construction contract.

c) **Architects Fee for the Work:** The estimated architectural/engineering fee for this work is 8% of the construction cost.

d) **Other Consideration:**

1) The State desires that the documents be completed so the project can be bid by February 1985.

Questions concerning this project may be referred to Lyle Nelson at (612) 296-4644.

7f) PROJECT—25-84

**Repair and Replace Projects
Minnesota Correctional Facility—Stillwater
Stillwater, Minnesota**

a) **Description of the Project:**

1) **General:** Mechanical construction including adding exhaust and circulating fans in each cell hall, replacement of valves and water and sewer lines in each Cell Hall, and replacement of underground and tunnel steam and condensate lines throughout the prison facilities.

2) **Site Location:** Stillwater, Minnesota

3) **Estimated Project Construction Cost:** \$415,000.00

b) **Work to be performed by the Architect:** The work includes the verification of the scope of work and budget; the preparation of the contract documents and estimated construction costs; prepare bid documents and make recommendations, provide general observation of the construction and administrate the construction contract.

c) **Engineer's Fee for the Work:** The estimated architectural/engineering fee for this work is 9% of the construction cost.

d) **Other Consideration:**

1) The State desires that the underground steam and condensate line replacement project be completed this fall. The remaining work can be bid by February 1985.

Questions concerning this project may be referred to Lyle Nelson at (612) 296-4644.

7g) CORRECTION

**PROJECT—16-84: Renovate Education Arts Building
PROJECT—19-84: Renovate Sattgast Hall**

These two projects were advertised in the June 4, 1984 issue of the *State Register*.

To accommodate program planning Project—16-84 renovate Education/Arts Building, and Project—19-84 renovate Sattgast Hall which were announced previously, will be awarded together. In planning the rehabilitation of the Education/Arts Building, the architect will be asked to consider the relative merits of replacing the building with a new structure.

The combined project will be numbered 16-84, and shall include the requirements contained for both projects.

Roger D. Clemence, Chairman
State Designer Selection Board

SUPREME COURT**Decisions of the Court of Appeals Filed Tuesday, June 5, 1984**

Compiled by Wayne O. Tschimperle, Clerk

C5-83,1613, C7-83,1614 In Re the Marriage of: Willard E. Witt, Petitioner, Appellant, v. Marjorie J. Witt, (C5-83-1613); and In Re Estate of Willard E. Witt, Deceased, (C7-83-1614) Appellant. Blue Earth County.

The obligation to pay future maintenance under a dissolution decree is terminated by the death of the obligor unless otherwise agreed in writing or expressly provided in the decree. A phrase such as "so long as obligee shall live" in the decree does not, without more, expressly provide for maintenance after death of the obligor.

Reversed. Popovich, C.J.

C3-83-2002 State of Minnesota v. Gary Curtis Fuller, Petitioner. St. Louis County.

The double jeopardy clause of the Minnesota Constitution precluded retrial by the State where defendant appeared for trial on a misdemeanor charge and two mistrials were called with the consent of defendant because of improper testimony by the State's witness.

The writ is made absolute. Popovich, C.J.

C6-84-626 Robert R. Helmerichs v. Bank of Minneapolis & Trust Company, Appellant. Hennepin County.

The appeal is dismissed on the merits with prejudice.

Popovich, C.J.

C8-83-1458 Donald E. Muecke, Appellant, v. State of Minnesota. Murray County.

A criminal appeal filed within ten days after the entry on the clerk's records is timely under the Rules of Criminal Procedure in effect prior to the new Rules of Civil Appellate Procedure.

Reversed. Parker, J.

C9-83-1629 Lawrence Donald Moll, Petitioner, Appellant, v. State of Minnesota. Nicollet County.

The trial court committed reversible error by including the unconstitutional language of Minn. Stat. § 643.341, subd. 11 (1980), in the jury instructions.

Appellant could properly be excluded from preliminary chambers examination to determine the competency of two child witnesses.

Exclusion of appellant's attorney from the court's preliminary chambers examination to determine the testimonial competency of two very young child victims in a sexual abuse case was within the sound discretion of the trial court.

If counsel are excluded from the court's in-chambers interrogation to determine competency of a young child witness to testify, the court must make a record of the specific reasons for excluding counsel and the interrogation of the child must be on the record.

Reversed and remanded. Parker, J.

C2-83-1987 State of Minnesota v. John P. Nunn, Appellant. Hennepin County.

The trial court committed reversible error by instructing the jury on aggravated robbery but refusing defendant's request for an instruction on the lesser included offense of theft, when theft was the essence of defendant's theory of the case.

SUPREME COURT

The trial court committed reversible error by instructing the jury that "it is undisputed that * * * a robbery did occur," when the question of whether a robbery or only a theft occurred was the central issue for the jury.

Reversed and remanded. Parker, J.

C2-83-2007 Clyde E. Eklund, Appellant, v. Vincent Brass and Aluminum Co. Washington County.

Where a terminated employee alleges an oral contract for permanent employment which can be performed within one year, proof of the contract is not barred by the statute of frauds.

Summary judgment is inappropriate to dismiss a terminated employee's claim for breach of an oral contract for permanent employment where the employee alleges sufficient facts to overcome the presumption that the contract was for at-will employment.

An implied covenant of good faith is not implied as a matter of law in all employment relationships. The parties can create such a covenant, expressly or by their actions.

The doctrine of promissory estoppel may apply to wrongful termination.

The tort of intentional infliction of emotional distress requires egregious facts not present in this case.

Punitive damages are not available under Minn. Stat. § 549.20 (1982) in contract cases.

The trial court properly dismissed appellant's claim for negligent termination of employment since Minnesota has not yet recognized this tort.

Affirmed in part, reversed in part and remanded. Foley, J.

C9-84-37 Rose E. Hines, Relator, v. Sheraton Ritz Hotel, and Commissioner of Economic Security. Department of Economic Security.

The Department of Economic Security's determination that relator was discharged for misconduct is supported by the evidence. Relator is disqualified from receiving unemployment compensation benefits.

Affirmed. Foley, J.

C8-84-62 State of Minnesota v. Elliot B. Holly, Appellant. Hennepin County.

When the defense objects to the non-sequestration of jurors overnight during deliberations, the non-sequestration is presumptively prejudicial.

Reversed and remanded for a new trial. Foley, J.

C0-83-1860 Bart Edward Butler, petitioner, Appellant, v. Commissioner of Public Safety. Hennepin County.

A *Miranda* warning is not necessary before an officer requests field sobriety tests.

Where an officer contacts a public defender for a suspected drunk driver, the driver's right to counsel was vindicated.

Affirmed. Wozniak, J.

C9-84-328 Donald J. Cary, Relator, v. Custom Coach, Inc., Commissioner of Economic Security. Department of Economic Security.

The record supports the commissioner's representative's denial of unemployment benefits to Cary because he had voluntarily left his employment without good cause attributable to his employer.

Affirmed. Wozniak, J.

C3-83-1710 Debora L. Letourneau, Appellant, v. David C. Letourneau. Ramsey County.

A trial court cannot deviate from the child support payment guidelines in Minn. Stat. §§ 518.17(5), 518.551(5) (Supp. 1983) simply because the custodial parent has an income, and her income minus her expenses results in a figure lower than the figure recommended by the guidelines.

Reversed in part and remanded. Sedgwick, J.

C0-84-10 State of Minnesota v. Gary L. Williams, Appellant. Hennepin County.

The retroactive reductions of mandatory minimum terms for gun-related offenses imposed by the legislature and the Sentencing Guidelines Commission apply unless the trial court provides reasons for departure.

Reversed. Lansing, J.

C1-83-1673 Mark Dalager, Paul Brenden, Stanley Panchott and Linda Panchott, Husband and Wife v. Montgomery Ward & Company, Inc., Appellant, v. Wayne R. Perrault. St. Louis County.

Evidence on the issue of causation of a fire which destroyed plaintiffs' property was sufficient to sustain the jury's verdict finding defendant liable for plaintiffs' damages.

Whether a worker is an agent or an independent contractor is a jury question. Evidence of the relationship between the worker and the defendant was sufficient to support the jury's finding of agency.

While the trial court may have erred in answering a question by the jury, the error was harmless where the jury instructions, when viewed as a whole, were not misleading.

Affirmed. Randall, J.

C5-84-133 Mark A. Rutten, Relator, v. Rockie International, Inc., Commissioner of Economic Security. Department of Economic Security.

Evidence was sufficient to support the finding of the Commissioner's representative that relator's \$300 per week draw was against his commissions and not straight salary. The employer had the right to reassign relator to his former position, which was on a straight commission basis, and the reassignment was not "good cause" attributable to the employer for relator to quit his job and qualify for unemployment compensation benefits.

Affirmed. Randall, J.

C8-83-1895 Edward J. Kunze and Minnesota Teamsters Public and Law Enforcement Employees Union Local #320 v. Peter Korolchuck, Chief of Police of the City of White Bear, et al., Appellants, Peace Officers Standards and Training Board, and Administrative Agency. Ramsey County.

Where the Supreme Court found that a police officer was improperly dismissed from the city's police force, the city was required to reinstate him without requiring that the officer successfully pass a physical examination.

Affirmed. Crippen, J.

Decisions of the Supreme Court Filed Friday, June 8, 1984

Compiled by Wayne O. Tschimperle, Clerk

C0-83-269 Samuel A. McCloud, Petitioner, Appellant, v. Commissioner of Public Safety. Hennepin County.

The Commissioner of Public Safety may not revoke the license of any driver convicted of traffic violations unless the certificates of conviction fully comply with Minn. Stat. § 169.95 and clearly disclose whether the violation was prosecuted as a misdemeanor or as a petty misdemeanor.

Reversed. Todd, J.

C8-83-777 Gary R. Westergren, Petitioner, Appellant, v. Commissioner of Public Safety. Hennepin County.

Appeal from an order denying petitioner's motion to rescind the revocation of his driver's license under the implied consent statute. The appeal is dismissed as moot because the period of revocation had ended before petitioner moved for rescission.

Dismissed. Yetka, J.

C3-83-864 Mid-America Festivals Corporation, Relator, v. Commissioner of Department of Economic Security. Department of Economic Security.

The mere intent to purchase the physical assets of a predecessor and the use of those assets under a leasehold arrangement and purchase agreement, later breached, are not sufficient to authorize a transfer of the predecessor's unemployment compensation experience rating to the successor under Minn. Stat. § 268.06, subd. 22(a) (1982). The successor business must also continue the fundamental character or identity of the predecessor business.

Reversed. Scott, J.

C7-81-278, C7-81-409, C1-82-1565 State of Minnesota v. Gale Allen Rachuy, Appellant. St. Louis County.

Petitioner received a fair trial and was properly convicted of theft.

Affirmed. Wahl, J.

C1-82-271 State of Minnesota, Plaintiff, v. Marshall Donald Murphy. Hennepin County.

Affirmed. Per Curiam.

SUPREME COURT

C0-84-587 In the Matter of the Application for the Discipline of Benjamin J. Ostfield, an Attorney at Law of the State of Minnesota. Supreme Court.

Disbarred. Per Curiam.

Took no part, Coyne, J.

C5-84-892 In the Matter of the Application for the Discipline of James F. McGovern, an Attorney at Law of the State of Minnesota. Supreme Court.

Immediate Suspension. Amdahl, C.J.

TAX COURT

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

State of Minnesota Tax Court County of Ramsey, Regular Division

Honeywell, Inc., Appellant, v. Commissioner of Revenue, Appellee; Docket Nos. 2880 and 2881

Findings of Fact, Conclusions of Law, and Order for Judgment

The above matter was heard by the Minnesota Tax Court, Judge Carl A. Jensen presiding, in the Courtroom of the Minnesota Tax Court in St. Paul, Minnesota, on October 18 through October 20, 1983. Stipulations of Fact and briefs were submitted.

Clinton A. Schroeder, James R. Lande, and John P. James of Gray, Plant, Mooty, Mooty & Bennett, appeared on behalf of Appellant.

C. H. Luther, Deputy Attorney General, and Michele M. Mielke, Special Assistant Attorney General, appeared on behalf of Appellee.

SYLLABUS

1. When a taxpayer corporation which has several wholly owned subsidiaries is authorized to file income tax returns on the basis of consolidated statements of income by the Commissioner of Revenue in accordance with the power given to the Commissioner by statute to authorize such filing, the Court will construe the extent of such authorization on the basis of the preponderance of all relevant evidence when there is an apparent ambiguity in the written authorization.

2. The sales of computers that have been previously leased to customers by the taxpayer constitute sales in the ordinary course of the taxpayer's business and result in ordinary income which is not subject to capital gains treatment.

FINDINGS OF FACT

1. Honeywell, Inc. (hereinafter Honeywell) is a Delaware corporation with its corporate headquarters in Minneapolis, Minnesota. Honeywell and its numerous domestic and foreign subsidiaries engage on a world-wide basis in the design, manufacture, sale and service of automation equipment and systems, including automation systems and controls for homes and buildings, industrial controls and control systems, aerospace and defense systems, and computers and communication products. (Stip. ¶1).

2. These consolidated actions concern the Minnesota income taxes of Honeywell and subsidiaries for the ten calendar years from 1965 through 1974. The orders of the Commissioner of Revenue (hereinafter the Commissioner) from which these appeals were taken were issued on March 9, 1979. (Stip. ¶2).

3. The first issue in this case concerns consolidated statements of income filed by Honeywell for the years 1967 through 1974. Minnesota law does not provide for a consolidated income tax return by groups of parent and subsidiary corporations but rather provides in appropriate circumstances under Minnesota Statutes Section 290.34, Subd. 2 for a corporation to file its own Minnesota income tax return based upon a consolidated statement of income involving the reporting corporation and one or

more related corporations. For the years 1967 through 1974, Honeywell requested permission three times for it and various subsidiaries to file Minnesota income tax returns based upon consolidated statements of income. The first request involved principally Honeywell Finance Inc. (HFI) which was formed in 1967; the second request Honeywell Information Systems Inc. (HIS), which was formed in 1970; and the third Honeywell DISC Inc., which was formed in 1972. Permission to file on such a basis, the scope of which is in dispute, was granted by letters to Honeywell from C. A. Anderson, Director, Income Tax Division, Minnesota Department of Taxation, dated July 18, 1968, September 14, 1971, and May 7, 1973. Honeywell did file its returns on the basis of a completely consolidated statement of all income of Honeywell and certain subsidiaries. The Commissioner, in his Order dated March 9, 1979, regarding the years 1967 through 1974, took the following positions regarding reporting based on consolidated statements of income:

1967-69 Consolidation of Honeywell and HFI allowed using the same three-step method employed by Honeywell; other subsidiaries (immaterial in their impact) disallowed.

1970 Estimate of consolidation of Honeywell and HFI through September 30, 1970 allowed, consolidation entirely denied thereafter.

1972-74 Consolidation of Honeywell and Honeywell DISC allowed but consolidation otherwise entirely denied.

Honeywell contends that consolidation should be allowed for each of the years 1967-74 as reported by it. The Commissioner contends that the consolidation should be allowed to the extent provided in his Order as described above. (Stip. ¶9c).

4. The second issue in this case arises out of sales of Honeywell computers that had originally been leased to Honeywell customers. During or after the lease term, Honeywell sold the previously-leased computers. In some cases, Honeywell sold the computer to the same customer that had previously leased it. In other cases, Honeywell re-acquired possession of the computer, re-conditioned it, and sold it to a different customer. The issue is whether the gains from these sales are taxable as capital gain by reason of being property used in Honeywell's trade or business, as contended by Honeywell, or as ordinary income, as contended by the Commissioner. In the federal audit of its income tax returns for the years in issue, Honeywell agreed that these gains were taxable as ordinary income. The facts relating principally to this issue are set forth at paragraphs 54 to 68 (obtainable by writing or visiting the State Documents Center, 117 University Avenue).

CONCLUSIONS OF LAW

1. The Commissioner of Taxation (Revenue) was acting within the authority granted to him in Minn. Stat. § 290.34, subd. 2, when he gave Honeywell authorization to file consolidated statements to determine the taxable net income of Honeywell and its affiliated corporations.

2. Honeywell properly filed combined statements of income and properly allocated the income to each of the corporations. Each of the corporations were then required to file its own income tax return and pay the proper taxes.

3. The Commissioner of Revenue's Order dated March 9, 1979, relative to the disallowance of the consolidation of the income of Honeywell, Inc. with its subsidiaries for the years 1967 through 1974 is hereby reversed and the Commissioner is ordered to revise its Order by allowing the consolidation of income and distribution of income as previously reported provided however that separate corporate income tax returns for each of the corporations on the basis of its allocated income must be filed.

4. The sales of previously leased computers by Honeywell, Inc. and Honeywell Information Systems, Inc. were not sales of capital assets, but were sales of property held primarily for sale to customers in the ordinary course of business; therefore the gains realized from such sales are properly taxable as ordinary income and not as capital gains.

5. The Commissioner of Revenue's Orders dated March 9, 1979, are affirmed in all respects insofar as they treat the gains realized by Honeywell, Inc. from the sales of previously leased computers as ordinary income rather than as capital gains.

IT IS SO ORDERED. A STAY OF 15 DAYS IS HEREBY ORDERED.

June 4, 1984

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

ERRATA

Department of Administration Printing and Mailing Services

Extension of Deadline for RFPs for Graphic Arts Design

The deadline for the requests for proposals for graphic arts design has been extended from 4:30 p.m. June 18, 1984, to 4:30 p.m. July 2, 1984. The notice for the approximately \$20,000 project was originally published in the *State Register* on May 28, 1984, page 2578. Contact Robert Collins, 612-296-3277, for details.

Department of Labor and Industry Prevailing Wage Division

Correction of Previous Notice of Prevailing Wage Rates

In the May 28, 1984 issue of the *State Register*, an incomplete list of counties was published for certification of prevailing wage rates effective June 1, 1984. Wabasha County was also certified on June 1, 1984.

Steve Keefe, Commissioner
Department of Labor & Industry

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