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STATE REGISTER

STATE OF MINNESOTA

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Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 9			
33	Monday Jan 28	Monday Feb 4	Monday Feb 11
34	Monday Feb 4	Monday Feb 11	Monday Feb 18
35	Monday Feb 11	Friday Feb 22	Monday Feb 25
36	Friday Feb 22	Monday Feb 25	Monday Mar 4

*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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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 also.

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 Rules.
- Proposed emergency rules.
- Withdrawal of proposed rules (option; not required).

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the *State Register* unless an agency requests this.)
- Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
- Notice of adoption of emergency rules.
- Adopted amendments to emergency rules (changes made since the proposed version was published).
- Extensions of emergency rules beyond their original effective date.

The OFFICIAL NOTICES section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
- Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before July 31, 1983 are published in the *Minnesota Rules 1983*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after July 31, 1983 will be included in a supplement scheduled for publication in mid-1984. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the *State Register* but are generally not published in the *Minnesota Rules 1983* due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

The *State Register* publishes partial and cumulative listings of rule in the MINNESOTA RULES AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
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(Now HUMAN SERVICES)

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PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, 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 the 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 §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce

Proposed Rules Relating to Broker-Dealer Licensing Exemptions for Certain Financial Institutions

Notice of Hearing

Notice is given that a public hearing will be held pursuant to Minn. Stat. § 14.14, Subd. 1 (1984), in the above-entitled matter in the Large Hearing Room, 500 Metro Square Building, St. Paul, Minnesota 55101, on March 13, 1985, at 9:00 A.M. and continuing until all interested persons and groups have had an opportunity to be heard concerning adoption of these proposed rules by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing by sending them to Administrative Law Judge, George A. Beck, 4th Floor, Summit Bank Building, 310 4th Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7601. The rule hearing procedure is governed by Minn. Stat. § 14.02-14.45 (1984), and by Minn. Rule 1400.0200-1400.1200 (1983). Questions regarding procedure may be directed to the Administrative Law Judge at the above-listed address.

The Commissioner proposes to adopt rules relating to Banks, Savings Institutions, and Savings & Loan Associations; Promotion or Establishment of Securities Brokerage Services Involving Execution of Customer Purchase and Sale Orders. Authority for adoption of these rules is contained in Minn. Stat. §§ 80A.25, subd. 1; 80A.05; 80A.14, subd. 4; 80A.15 and 45.023. A copy of the proposed rules accompanies this notice.

The proposed rules, if adopted, will govern Banks, Savings Institutions, and Savings & Loan Associations in regard to the promotion or establishment of brokerage services involving the execution of customer purchase and sale orders. The rules set forth the manner in which the affected institutions must conduct themselves if they are not licensed as securities broker-dealers.

Notice is hereby given that a Statement of Need and Reasonableness is available for review at the Department of Commerce and is available at the Office of Administrative Hearings. This Statement of Need and Reasonableness includes a summary of all of the evidence and arguments which the Department anticipates presenting at the hearing, justifying both the need for and the reasonableness of the proposed rules. A copy of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Pursuant to Minn. Laws 1983, ch. 188 codified as Minn. Stat. § 14.115, subd. 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

All interested or affected persons will have an opportunity to participate by presenting oral and/or written evidence at the hearing. Questioning of agency representatives or witnesses, and of interested persons making oral statements will be allowed in order to explain the purpose or intended operation of the proposed rules, or a suggested modification, or for other purposes material to the evaluation or formulation of the proposed rules.

As a result of the hearing process, the proposed rule may be modified. Written material may be submitted to the Administrative Law Judge and recorded in the hearing record for five working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the five to twenty-day submission period, there will be a three-day period in which the Commissioner and interested persons may respond in writing to any new information submitted. During the

PROPOSED RULES

three-day period, the agency may indicate in writing whether there are any amendments suggested by other persons which the agency is willing to adopt. Additional evidence may not be submitted during the three-day period. The written responses will be added to the record of the proceeding.

Notice: Any person may request notification of the date on which the Administrative Law Judge's Report will be available, after which date the Department of Commerce may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the rules have been filed with the Secretary of State. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge for notice of the report or to the Department for notice of filing with the Secretary of State.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, Subd. 11 as an individual:

Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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

One free copy of this notice and the proposed rules may be obtained by contacting Rose Weiner, Department of Commerce, 500 Metro Square Building, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing.

January 18, 1985

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed (all new material)

2875.1590 BANKS, SAVINGS INSTITUTIONS, AND SAVINGS AND LOAN ASSOCIATIONS; PROMOTION OR ESTABLISHMENT OF SECURITIES BROKERAGE SERVICES INVOLVING EXECUTION OF CUSTOMER PURCHASE AND SALE ORDERS.

Subpart 1. License requirements. A bank, savings institution, or savings and loan association which is not licensed as a broker-dealer may effect transactions in securities for the account of others by promoting or establishing accounts for broker-dealers only if the bank, savings institution, or savings and loan association:

A. does not hold itself out to the public as a securities broker through publishing, broadcasting, distributing, or circulating any form of advertising through any type of media or any other manner;

B. contracts with a broker-dealer to promote or establish accounts for that broker-dealer and the following conditions are all met:

(1) the broker-dealer is a National Association of Securities Dealers member who is licensed in Minnesota;

(2) all determinations of suitability are made by the licensed broker-dealer;

(3) promotional or account-establishing functions are only performed by persons who are licensed as agents to the broker-dealer; and

(4) the bank, savings association, or savings and loan association has a contract with only one broker-dealer during the same period of time;

C. does not engage in investment advice or underwriting in connection with the securities activities described in this rule;

D. conducts all securities activities in a manner not exceeding the powers conferred by federal and state laws regulating banks, savings institutions, and savings and loan associations; and

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

PROPOSED RULES

E. does not receive compensation for referrals to broker-dealers whose activities are not within the scope of these rules.

Subp. 2. Employees as agents. No bank employees may be licensed as agents to more than one broker-dealer.

Subp. 3. Filing requirements. If a bank, savings institution, or savings and loan association contracts with a licensed broker-dealer to promote or establish accounts, the following information must be provided to the commissioner at least 30 days prior to the effective date of the contract:

A. the training manual to be used in the training of bank employees by the broker-dealer and a description of all other training to be provided;

B. a written description of the allocation of the following functions between the contracting parties with respect to securities transactions;

- (1) opening, approving, and monitoring of accounts;
- (2) extension of credit;
- (3) maintenance of books and records;
- (4) receipt of and delivery of funds and securities;
- (5) safeguarding of funds and securities;
- (6) confirmations and statements; and
- (7) acceptance of orders and execution of transactions;

C. a written commitment from the bank, savings institution, or savings and loan association that the commissioner will have access to customer records of securities transactions in their possession;

D. identification of all bank, savings institution, or savings and loan association employees involved with the marketing program, a description of their functions and method of compensation, and identification of the agents of the licensed broker-dealer; and

E. a U-4 application for designated agents of the licensed broker-dealer.

Department of Health Health Resources Division

Withdrawal of Proposed Temporary Rule Governing Nursing and Boarding Care Homes, Medical Assistance Certification of Beds

Notice of Withdrawal of a Temporary Rule

The Department of Health withdraws the proposed temporary rule identified as Minnesota Rules 4655.0510 to 4655.0520 [Temporary] that was published in the September 10, 1984 edition of the *State Register* [9 SR 547], pages 547-549.

Department of Human Services

Proposed Rules Relating to Nursing Home Payment Rate Determination

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Minnesota Veterans Home, Chapel-Auditorium, Building No. 15, 5105 Minnehaha Avenue South, Minneapolis, Minnesota on March 7, 1985, commencing at 9 a.m. and continuing until all interested persons have an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close

of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Jon Lunde, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota, 55415, telephone 612/341-7645, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. Additional evidence may not be submitted during this three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, section 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.01 to 14.56 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9549.0010 to 9549.0080 establish procedures for determining the payment rates for nursing homes licensed under Minnesota Statutes, chapter 144A or boarding care facilities licensed under Minnesota Statutes, section 144.50 to 144.58 participating in the Medical Assistance Program. The rules include a definition section; cost allocation procedures; requirements for determination of allowable costs; non-allowable costs for setting nursing home payment rates; reporting procedures by cost category; general reporting requirements including cost report requirements; method for determination of the property-related payment rate; payment procedure for real estate taxes and special assessments; computation of the total payment rate and appeals procedures.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, sections 256B.41 through 256B.502. The cost to local public bodies of implementing the proposed rule changes will not exceed \$100,000 for either of the first two years following passage of the rule.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Mary Ann Bredesen, Long-Term Care Management, Department of Human Services, Sixth Floor, Space Center, St. Paul, Minnesota, 55102, telephone 612/296-2738. Additional copies will be available at the hearing. If you have any questions on the content of the rule amendments, contact Charles V. Osell, Long-Term Care Management, Department of Human Services, Sixth Floor, Space Center, St. Paul, Minnesota, 55102, telephone 612/296-4931.

Notice is hereby given that a Statement of Need and Reasonableness is available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Note: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the rule has been adopted and filed by the agency with the Secretary of State. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge (in the case of the Administrative Law Judge's report), or to the agency (in the case of the agency's submission to the Secretary of State).

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11 as any individual:

A. Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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

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

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

January 18, 1985

Francis E. Giberson
Deputy Commissioner

Rules as Proposed (all new material)

CHAPTER 9549 DEPARTMENT OF HUMAN SERVICES NURSING HOME PAYMENT RATE DETERMINATION

9549.0010 SCOPE.

Parts 9549.0010 to 9549.0080 establish procedures for determining the payment rates for nursing homes participating in the medical assistance program.

9549.0020 DEFINITIONS.

Subpart 1. Applicability. As used in parts 9549.0010 to 9549.0080 the following terms have the meanings given them.

Subp. 2. Actual allowable historical operating cost. "Actual allowable historical operating cost" means the operating costs incurred by the nursing home and allowed by the commissioner for the most recent reporting year.

Subp. 3. Addition. "Addition" means an extension, enlargement, or expansion of the nursing home for the purpose of increasing the number of licensed beds or improving resident care.

Subp. 4. Applicable credit. "Applicable credit" means a receipt or expense reduction as a result of a purchase discount, rebate, refund, allowance, public grant, beauty shop income, adjustment for overcharges, insurance claims settlement, or any other adjustment or income reducing the cost of the nursing home.

Subp. 5. Appraised value. "Appraised value" means the value of the nursing home buildings, attached fixtures, and land improvements used directly for resident care as determined under part 9549.0060.

Subp. 6. Attached fixtures. "Attached fixtures" means equipment used directly for resident care affixed to the building and not easily moveable as specified in the fixed equipment table of the depreciation guidelines. Attached fixtures include electrical wiring, plumbing, heating and cooling systems, elevators, built-in refrigerators, and freezers.

Subp. 7. Buildings. "Buildings" means the physical plant used directly for resident care and licensed under Minnesota Statutes, chapter 144A or Minnesota Statutes, sections 144.50 to 144.58 and which does not include attached fixtures, land improvements, and depreciable equipment.

Subp. 8. Building capital allowance. "Building capital allowance" means the component of the property-related payment rate which is denominated as a payment for the use of buildings, attached fixtures, and land improvements.

Subp. 9. Capital assets. "Capital assets" means a nursing home's buildings, attached fixtures, land improvements, depreciable equipment, leasehold improvements, and all additions to or replacements of those assets used directly for resident care.

Subp. 10. Commenced construction. "Commenced construction" means the date on which a newly-constructed nursing home, or nursing home with an increase in licensed beds of 50 percent or more, meets all the following conditions:

- A. The final working drawings and specifications were approved by the commissioner of health.
- B. The construction contracts were let.
- C. A timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction.
- D. All zoning and building permits have been issued.
- E. Financing for the project was secured as evidenced by the issuance of a binding letter of commitment by the financial institution, sale of bonds, or other similarly binding agreements.

Subp. 11. Commissioner. "Commissioner" means the commissioner of the Minnesota Department of Human Services.

Subp. 12. Cost category. "Cost category" means the classification or grouping of similar or related costs for purposes of reporting, audit, cost control, and the determination of cost limitations.

Subp. 13. Cost report. "Cost report" means the document and supporting material specified by the commissioner and prepared by the nursing home. The cost report includes the statistical, financial, and other relevant information required in part 9549.0041 for rate determination.

Subp. 14. Deletion. "Deletion" means the sale, destruction, or dismantling of a nursing home capital asset or a portion of a nursing home capital asset without subsequent replacement.

Subp. 15. Department. "Department" means the Minnesota Department of Human Services.

Subp. 16. Depreciated replacement cost method. "Depreciated replacement cost method" means the method of property appraisal which determines the value of a capital asset by establishing the replacement cost new reduced by depreciation. As used in this subpart and part 9549.0060:

A. "Replacement cost new" means the amount required to obtain a new asset of equivalent utility to that which exists, but built at current prices, with modern materials and according to current standards, designs, and layout.

B. "Depreciation" means a loss of utility and hence value caused by deterioration or physical depreciation such as wear and tear, decay, dry rot, cracks, encrustations, or structural defects; and functional obsolescence such as poor plan, mechanical inadequacy or overadequacy, and functional inadequacy or overadequacy due to size, style, or age.

Subp. 17. Depreciable equipment. "Depreciable equipment" means the standard moveable resident care equipment and support service equipment used in nursing homes directly for resident care and specified in the major moveable equipment table of the depreciation guidelines.

Subp. 18. Depreciation guidelines. "Depreciation guidelines" means "The Estimated Useful Lives of Depreciable Hospital Assets," issued by the American Hospital Association, 840 North Lake Shore Drive, Chicago, Illinois (Chicago: 1983). The depreciation guidelines are incorporated by reference and are available for reference at the Minnesota State Law Library, 117 University Avenue, Saint Paul, Minnesota.

Subp. 19. Desk audit. "Desk audit" means the establishment of the payment rate based on the commissioner's review and analysis of required reports, supporting documentation, and work sheets submitted by the nursing home.

Subp. 20. Direct cost. "Direct cost" means a cost that can be identified within a specific cost category without the use of allocation methods.

Subp. 21. Equipment allowance. "Equipment allowance" means the component of the property-related payment rate which is denominated as a payment for the use of depreciable equipment.

Subp. 22. Field audit. "Field audit" means the on-site examination, verification, and review of the financial records, statistical records, and related supporting documentation of the nursing home and any related organization.

Subp. 23. Fringe benefits. "Fringe benefits" means workers' compensation insurance, group health, disability or dental insurance, group life insurance, retirement benefits or plans, and uniform allowances.

Subp. 24. General and administrative costs. "General and administrative costs" means the costs of administering the nursing home as specified in part 9549.0040.

Subp. 25. Historical operating costs. "Historical operating costs" means the allowable operating costs incurred by the nursing home during the reporting year immediately preceding the rate year for which the payment rate becomes effective, after the application of appropriate limitations such as those on general and administrative costs.

Subp. 26. Hospital-attached nursing home. "Hospital-attached nursing home" means a nursing home which is under common ownership and operation with a licensed hospital and shares with the hospital the cost of common service areas such as nursing, dietary, housekeeping, laundry, plant operations, or administrative services and which is required to use the stepdown method of allocation by the Medicare program, title XVIII of the Social Security Act, provided that the stepdown results in part of the cost of the shared areas to be allocated between the hospital and the nursing home, and that the stepdown numbers are the numbers used for Medicare reimbursement.

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Subp. 27. Indirect cost. "Indirect cost" means a cost that is incurred for a common or joint purpose and is identified with more than one cost category but is not readily identified with a specific cost category.

Subp. 28. Land improvement. "Land improvement" means an improvement to the land surrounding the nursing home directly used for resident care as specified in the land improvements table of the depreciation guidelines, if replacement of the land improvement is the responsibility of the nursing home.

Subp. 29. Medical assistance program. "Medical assistance program" means the program which reimburses the cost of health care provided to eligible recipients pursuant to Minnesota Statutes, chapter 256B and United States Code, title 42, section 1396 et seq.

Subp. 30. Necessary service. "Necessary service" means a function pertinent to the nursing home's operation which if not performed by the assigned individual would have required the nursing home to employ or assign another individual to perform it.

Subp. 31. Nursing home. "Nursing home" means a facility licensed under Minnesota Statutes, chapter 144A or a boarding care facility licensed under Minnesota Statutes, sections 144.50 to 144.58.

Subp. 32. Operating costs. "Operating costs" means the costs of operating the nursing home in compliance with licensure and certification standards. Operating cost categories are:

- A. nursing, including nurses and nursing assistants training;
- B. dietary;
- C. laundry and linen;
- D. housekeeping;
- E. plant operation and maintenance;
- F. other care-related services;
- G. general and administrative;
- H. payroll taxes, fringe benefits, and clerical training; and
- I. real estate taxes and actual special assessments paid.

Subp. 33. Payroll taxes. "Payroll taxes" means the employer's share of social security withholding taxes, governmentally required retirement contributions, and state and federal unemployment compensation taxes or costs.

Subp. 34. Preopening costs. "Preopening costs" means the operating costs incurred prior to the admission of a resident to a newly-constructed nursing home.

Subp. 35. Private paying resident. "Private paying resident" means a nursing home resident who is not a medical assistance program recipient for the date of service and whose payment rate is not established by another third party, including the Veterans Administration or Medicare.

Subp. 36. Rate year. "Rate year" means the state of Minnesota's fiscal year for which a payment rate is effective, from July 1 through the following June 30.

Subp. 37. Real estate taxes and special assessments. "Real estate taxes and special assessments" means the real estate tax liability shown on the annual property tax statement of the nursing home for the calendar year during which the rate year begins and the actual special assessments and related interest paid during the reporting year. The term does not include personnel costs or fees for late payment.

Subp. 38. Related organization. "Related organization" means a person that furnishes goods or services to a nursing home and that is an affiliate of a nursing home, a close relative of an affiliate of a nursing home, or an affiliate of a close relative of an affiliate of a nursing home. As used in this subpart:

A. An "affiliate" is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

B. A "person" is an individual, a corporation, a partnership, an association, a trust, an unincorporated organization, or a government or political subdivision.

C. A "close relative of an affiliate of a nursing home" is an individual whose relationship by blood, marriage, or adoption to an individual who is an affiliate of a nursing home is no more remote than first cousin.

D. "Control" including the terms "controlling," "controlled by," and "under common control with" is the possession, direct or indirect, of the power to direct or cause the direction of the management, operations, or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Subp. 39. Repair. "Repair" means the cost of actions and materials needed to restore an existing capital asset to sound condition after damage or malfunction.

Subp. 40. Replacement. "Replacement" means a renovation or substitution of an existing capital asset to improve its function or extend its useful life.

Subp. 41. Reporting year. "Reporting year" means the period from October 1 to September 30, immediately preceding the rate year, for which the nursing home submits its cost report, and which is the basis for the determination of the payment rate for the following rate year.

Subp. 42. Resident day. "Resident day" means a day for which nursing services are rendered and billed, or a day for which a bed is held and billed.

Subp. 43. Top management personnel. "Top management personnel" means owners, board members, corporate officers, general, regional, and district managers, administrators and the nursing home administrator, according to Minnesota Statutes, section 144A.04, subdivision 5 and any other person performing the function of such personnel. Persons performing functions only as nursing home department heads are not included in this definition.

Subp. 44. Total payment rate. "Total payment rate" means the addition of the operating cost payment rate, the property-related payment rate, and the real estate tax and special assessments payment rate as established by the commissioner to pay for the care of residents in nursing homes.

Subp. 45. Useful life. "Useful life" means the length of time an asset is expected to provide economic service before needing replacement.

Subp. 46. Utility vehicle. "Utility vehicle" means a vehicle specially equipped for purposes of nursing home operations and not readily adaptable to personal use.

Subp. 47. Vested. "Vested" means the existence of a legally fixed unconditional right to a present or future benefit.

Subp. 48. Working capital debt. "Working capital debt" means debt incurred to finance nursing home operating costs. Working capital does not include debt incurred to acquire or finance a capital asset.

9549.0030 COST ALLOCATION PROCEDURES.

Subpart 1. Classification. Classification of costs is the process of charging costs to the appropriate cost categories and compiling a total for each cost category to be recorded on the cost report. Nursing homes shall classify their costs in accordance with the cost categories in part 9549.0040. Costs that cannot be specifically classified in a cost category must be classified in the general and administrative cost category.

Subp. 2. Identification. Except for the salary costs of individuals with multiple duties, costs must be directly identified, without allocation, by routine classification of transactions when costs are recorded in the books and records of the nursing home.

Subp. 3. Personnel with multiple duties. When a person other than top management personnel has multiple duties, the person's salary cost must be allocated to the cost categories on the basis of time distribution records that show actual time spent on various activities. In a nursing home of 60 or fewer beds, part of the salary or salaries of top management personnel may be allocated to other cost categories to the extent justified in time distribution records which show the actual time spent on various activities.

Subp. 4. Central, affiliated, or corporate office costs. Cost allocation for central, affiliated, or corporate offices shall be governed by items A to F.

A. Central, affiliated, or corporate office costs representing services of consultants required by law or rule in areas including dietary, pharmacy, social services, or other resident care related activities may be allocated to the appropriate cost category, but only to the extent that those costs are directly identified by the nursing home.

B. Except as provided in item A, central, affiliated, or corporate office costs must be allocated to the general and administrative cost category of each nursing home within the group served by the central, affiliated, or corporate office according to subitems (1) to (4).

(1) All costs which can be directly identified with a specific nursing home must be allocated to that nursing home.

(2) All costs which can be directly identified with an operation unrelated to the nursing home operations must be allocated to that unrelated operation.

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(3) After the costs which can be directly identified pursuant to subitems (1) and (2) have been allocated, the remaining central, affiliated, or corporate office costs must be allocated between nursing home operations and unrelated operations based on the ratio of expenses.

(4) Next, operations which have nursing homes both in Minnesota and outside of Minnesota must allocate the central, affiliated, or corporate office costs to Minnesota based on the ratio of total resident days in Minnesota nursing homes to the total resident days in all nursing home operations.

(5) Finally, the central, affiliated, or corporate costs allocated to all Minnesota nursing homes must be allocated to each nursing home based on resident days.

C. Central, affiliated, or corporate office property-related costs of capital assets used directly by the nursing home in the provision of nursing home services must be allocated to the nursing homes which use the capital asset and must be reimbursed under part 9549.0060. Central, affiliated, or corporate office property-related costs of capital assets which are not used directly by the nursing home in the provision of nursing home services must be allocated to the general and administrative cost category of each nursing home using the methods described in item B.

D. The useful life of a new capital asset maintained by a central, affiliated, or corporate office must be determined by applying one of the following schedules in subitem (1) or (2):

(1) the useful life of a building is 35 years; of land improvement is 20 years; of a major building improvement is the greater of 15 years or the remaining life of the principal capital asset; of depreciable equipment except vehicles is ten years; and of a vehicle is four years; or

(2) the depreciation guidelines.

E. The useful life of used capital assets maintained by a central, affiliated, or corporate office must be determined based on the physical condition of the used capital asset but the useful life of the used capital asset must not be less than one-half the useful life determined under item D.

F. The useful life of leasehold improvements maintained by a central, affiliated, or corporate office must be either the useful life of the improvement determined under item D or the remaining term of the lease, including renewal periods, whichever is shorter.

Subp. 5. General and administrative costs. Except as provided in subpart 3, general and administrative costs must not be allocated as direct or indirect costs to other cost categories.

9549.0035 DETERMINATION OF ALLOWABLE COSTS.

Subpart 1. Allowable costs. Only costs determined to be allowable under parts 9549.0010 to 9549.0080 shall be used to compute the total payment rate for nursing homes participating in the medical assistance program.

Subp. 2. Applicable credits. Applicable credits must be used to offset or reduce the expenses of the nursing home to the extent that the cost to which the credits apply was claimed as a nursing home cost. Interest income, dividend income, and other investment income of the nursing home or related organization are not applicable credits except to the extent that the interest expense on working capital debt is incurred and claimed as a reimbursable expense by the nursing home or related organization. Interest income must not be offset against working capital interest expense if it relates to a bond sinking fund or other fund with income not available to the nursing home.

Subp. 3. Adequate documentation. A nursing home shall keep adequate documentation.

A. In order to be adequate, documentation must:

(1) be maintained in orderly, well-organized files;

(2) not include documentation of more than one nursing home in one set of files unless transactions may be traced by the department to the nursing home's annual cost report;

(3) include a paid invoice or copy of a paid invoice with date of purchase, vendor name and address, purchaser name and delivery destination address, listing of items or services purchased, cost of items purchased, account number to which the cost is posted, and a breakdown of any allocation of costs between accounts or nursing homes;

(4) include contracts, agreements, amortization schedules, mortgages, other debt instruments, and all other documents necessary to explain the nursing home's costs or revenues; and

(5) be retained by the nursing home to support the five most recent annual cost reports. The commissioner may extend the period of retention if the records are necessary to resolve a pending appeal or are required for the enforcement of Minnesota Statutes, section 256B.48.

B. Compensation for personal services, regardless of whether treated as direct or indirect costs, must be documented on payroll records. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and

wages of employees which are allocated to more than one cost category must be supported by time distribution records. The method used must produce a proportional distribution of actual time spent performing assigned duties. The compensation must reflect an amount proportionate to a full-time basis if the services are rendered on less than a full-time basis.

C. Except for vehicles used exclusively for nursing home business, the nursing home or related organization must maintain a motor vehicle log that shows nursing home mileage for the reporting year. Mileage paid for the use of a personal vehicle must be documented.

D. Complete and orderly records must be maintained for cost allocations made to cost categories.

Subp. 4. Compensation for personal services. Compensation for personal services includes all the remuneration paid currently, accrued or deferred, for services rendered by the nursing home's owners or employees. Only compensation costs for the current reporting period are allowable subject to the requirements of parts 9549.0010 to 9549.0080.

A. Compensation includes:

- (1) salaries, wages, bonuses, vested vacations, vested sick leave, and fringe benefits paid for managerial, administrative, professional, and other services;
- (2) amounts paid by the nursing home for the personal benefit of the owners or employees;
- (3) the costs of assets and services which the owner or employee receives from the nursing home;
- (4) deferred compensation, individual retirement plans such as individual retirement accounts, pension plans, and profit-sharing plans;
- (5) the annual cost of supplies, use of capital assets, services for personal use, or any other in-kind benefits received by the owners or employees; and
- (6) payment to nonpaid workers, and to organizations of nonpaid workers, that have arrangements with the nursing home for the performance of services by the nonpaid workers.

B. The nursing home must have a written policy for payment of compensation for personal services. The policy must relate the individual's compensation to the performance of specified duties and to the number of hours worked by the individual; and result in consistent treatment of employees working in comparable positions within the nursing home.

C. Only necessary services shall be compensated.

D. Except for accrued vested vacation, vested sick leave, or compensation claims subject to litigation or employer-employee dispute resolution, compensation must be actually paid, whether by cash or negotiable instrument, within 107 days after the close of the reporting period. If payment is not made within the 107 days, the unpaid compensation shall be disallowed in that reporting year and shall not be an allowable cost in future reporting years.

Subp. 5. Licensure and certification costs. Subject to parts 9549.0010 to 9549.0080 all operating costs of meeting the licensure and certification standards in items A to C are allowable operating costs for the purpose of setting nursing home payment rates. The standards are:

- A. standards set by federal regulations for skilled nursing facilities and intermediate care facilities;
- B. requirements established by the Minnesota Department of Health for meeting health standards as set out by state rules and federal regulations; and
- C. other requirements for licensing under state law or rules that must be met to provide nursing and boarding care services.

Subp. 6. Routine service costs. Subject to parts 9549.0010 to 9549.0080 all operating costs of routine services including nursing, dietary, and support services are allowable operating costs for the purpose of setting nursing home payment rates.

Subp. 7. Related organization costs. Costs applicable to services, capital assets, and supplies directly or indirectly furnished to the nursing home by any related organization are includable in the allowable cost of the nursing home at the cost to the related organization if these costs do not exceed the price of comparable services, capital assets, or supplies that could be purchased elsewhere.

If the related organization in the normal course of business sells services, capital assets, or supplies to nonrelated organizations,

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the cost to the nursing home shall be the nonrelated organization's price provided that sales to nonrelated organizations constitute at least 50 percent of total annual sales of similar services, or capital assets, or supplies.

Subject to parts 9549.0010 to 9549.0080, the cost of ownership of a capital asset which is used by the nursing home must be included in the allowable cost of the nursing home even though it is owned by a related organization.

Subp. 8. General cost principles. For rate-setting purposes, a cost must satisfy the following criteria:

- A. the cost is ordinary, necessary, and related to resident care;
- B. the cost is what a prudent and cost conscious business person would pay for the specific good or service in the open market in an arm's length transaction;
- C. the cost is for goods or services actually provided in the nursing home;
- D. the cost effects of transactions that have the effect of circumventing these rules are not allowable under the principle that the substance of the transaction shall prevail over form; and
- E. costs that are incurred due to management inefficiency, unnecessary care or facilities, agreements not to compete, or activities not commonly accepted in the nursing home care field are not allowable.

9549.0036 NONALLOWABLE COSTS.

The costs listed in items A to EE are not allowable for purposes of setting payment rates but must be identified on the nursing home's cost report.

- A. All contributions, including charitable contributions, and contributions to political action committees or campaigns.
- B. Salaries and expenses of a lobbyist.
- C. Legal and related expenses for unsuccessful challenges to decisions by governmental agencies.
- D. Assessments made by or the portion of dues charged by associations or professional organizations for litigation except for successful challenges to decisions by agencies of the state of Minnesota; lobbying costs; or contributions to political action committees or campaigns. Where the breakdown of dues charged to a nursing home is not provided, the entire cost shall be disallowed.
- E. Advertising designed to encourage potential residents to select a particular nursing home. This item does not apply to a notice of reasonable size and cost placed in the telephone yellow pages.
- F. Assessments levied by the commissioner of the Minnesota Department of Health for uncorrected violations.
- G. Employee or owner's membership or other fees for social, fraternal, sports, health, or similar organizations.
- H. Cost incurred for activities directly related to influencing employees with respect to unionization.
- I. Costs of activities not related to resident care such as flowers or gifts for employees or owners, employee parties, and business meals.
- J. Costs related to purchase of and care for pets.
- K. Penalties, interest charges from governmental agencies, and bank overdraft or late payment charges.
- L. Costs of sponsoring employee, youth, or adult activities such as athletic teams and beauty contests.
- M. Premiums on owner's or board member's life insurance policies, except that such premiums shall be allowed if the policy is included within a group policy provided for all employees, or if such a policy is required as a condition of mortgage or loan and the mortgagee or lending institution is listed as the beneficiary.
- N. Personal expenses of owners and employees, such as vacations, boats, airplanes, personal travel or vehicles, and entertainment.
- O. Costs of training programs for anyone other than employees or volunteers in the nursing home.
- P. Costs of training programs to meet the minimum educational requirements of a position, education that leads to a degree, or education that qualifies the employee for a new trade or profession. This item does not apply to training or education of nursing aides or training to meet the requirements of laws, rules, or regulations for keeping an employee's salary, status, or position or to maintain or update skills needed in performing the employee's present duties.
- Q. Bad debts and related bad debt collection fees except as provided in part 9549.0040, subpart 7, item W.
- R. Costs of fund raising activities.
- S. Costs associated with the management of investments which may produce interest income, dividend income, or other investment income or losses.

T. Costs of functions normally paid by charges to residents, employees, visitors, or others such as the direct and indirect costs of operating a pharmacy, congregate dining program, home delivered meals program, gift shop, coffee shop, apartment, or day care center.

U. Operating costs for activities to the extent that the activities are financed by gifts or grants from public funds. A transfer of funds from a local governmental unit to its governmentally-owned nursing home is not a gift or grant under this item.

V. Telephone, television, and radio service provided in a resident's room.

W. Costs of covenants not to compete.

X. Identifiable costs of services provided by a licensed medical therapeutic or rehabilitation practitioner or any other vendor of medical care which are billed separately on a fee for service basis, including:

(1) the purchase of service fees paid to the vendor or his or her agent who is not an employee of the nursing home or the compensation of the practitioner who is an employee of the nursing home;

(2) allocated compensation and related costs of any nursing home personnel assisting in providing these services; and

(3) allocated operating or property cost for providing these services such as housekeeping, laundry, maintenance, medical records, payroll taxes, space, utilities, equipment, supplies, bookkeeping, secretarial, insurance, supervision and administration, and real estate taxes and special assessments.

If any of the costs in subitems (1) to (3) are incurred by the nursing home, these costs must be reported as nonreimbursable expenses, together with any of the income received or anticipated by the nursing home including any charges by the nursing home to the vendor.

Y. Costs for which adequate documentation is not maintained or provided as required by parts 9549.0010 to 9549.0080.

Z. Fringe benefits or payroll taxes associated with disallowed salary costs.

AA. Costs associated with sales or reorganizations of nursing homes.

BB. Accruals of vacation and sick leave for employees which are not fully vested.

CC. Payments made in lieu of real estate taxes, unless such payments are made under a legally enforceable irrevocable written contract entered into prior to September 30, 1984.

DD. Adverse judgments, settlements, and repayments of escrow accounts resulting from the enforcement of Minnesota Statutes, section 256B.48 and related costs and expenses.

EE. Costs including legal fees, accounting fees, administrative costs, travel costs, and the costs of feasibility studies attributed to the negotiation or settlement of a sale or purchase of any capital asset by acquisition or merger for which any payment has previously been made under parts 9549.0010 to 9549.0080.

9549.0040 REPORTING BY COST CATEGORY.

Subpart 1. Dietary services. The costs listed in items A to D are to be reported in the dietary services cost category:

A. direct costs of normal and special diet food including raw food, dietary supplies, food preparation and serving, and special dietary supplements used for tube feeding or oral feeding, such as elemental high nitrogen diet, even if written as prescription item by a physician;

B. the salaries and wages of the supervisor, dietitians, chefs, cooks, dishwashers, and other employees assigned to the kitchen and dining room including the salaries or fees of dietary consultants;

C. the costs of training to meet the requirements of laws, rules, or regulations for keeping an employee's salary, status, or position or to maintain or update skills needed in performing the employee's present duties; and

D. the costs of travel necessary for training programs for dietitians required to maintain licensure, certification, or professional standards.

Subp. 2. Laundry and linen services. The costs listed in items A and B are to be reported in the laundry and linen services cost category:

A. direct costs of linen and bedding, the laundering of resident clothing, other laundering, and laundry supplies; and

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B. the salaries and wages of the supervisor, menders, ironers, and other laundry employees.

Subp. 3. Housekeeping services. The costs listed in items A and B are to be reported in the housekeeping services cost category:

A. direct costs of housekeeping supplies, including cleaning and lavatory supplies; and

B. the salaries and wages of the supervisor, housekeepers, and other cleaning personnel.

Subp. 4. Plant operation and maintenance services. The costs listed in items A to C are to be reported in the plant operations and maintenance cost category:

A. direct costs for maintenance and operation of the building and grounds, including fuel, electricity, water, sewer, supplies, tools, and repairs which are not capitalized;

B. the salaries and wages of the supervisor, engineers, heating-plant employees, independent contractors, and other maintenance personnel; and

C. the cost of required licenses and permits.

Subp. 5. Nursing services. Direct costs associated with nursing services identified in items A to Y, are to be included in the nursing services cost category:

A. nursing assessment of the health status of the resident and planning of appropriate interventions to overcome identified problems and maximize resident strengths;

B. bedside care and services;

C. care and services according to the order of the attending physicians;

D. monitoring procedures such as vital signs, urine testing, weight, intake and output, and observation of the body system;

E. administration of oral, sublingual, rectal, and local medications topically applied, and appropriate recording of the resident's responses;

F. drawing blood and collecting specimens for submission to laboratories;

G. prevention of skin irritation and decubitus ulcers;

H. routine changing of dressings;

I. training, assistance, and encouragement for self-care as required for feeding, grooming, ambulation, toilet, and other activities of daily living including movement within the nursing home facility;

J. supportive assistance and training in resident transfer techniques including transfer from bed to wheelchair or wheelchair to commode;

K. care of residents with casts, braces, splints, and other appliances requiring nursing care or supervision;

L. care of residents with behavior problems and severe emotional problems requiring nursing care or supervision;

M. administration of oxygen;

N. use of nebulizers;

O. maintenance care of resident's colostomy, ileostomy, and urostomy;

P. administration of parenteral medications, including intravenous solutions;

Q. administration of tube feedings;

R. nasopharyngeal aspiration required for maintenance of a clean airway;

S. care of suprapubic catheters and urethral catheters;

T. care of tracheostomy, gastrostomy, and other tubes in a body;

U. costs of equipment and supplies that are used to complement the services in the nursing services cost category, including items stocked at nursing stations or on the floor and distributed or used individually, including: alcohol, applicators, cotton balls, incontinence pads, disposable ice bags, dressings, bandages, water pitchers, tongue depressors, disposable gloves, enemas, enema equipment, soap and water, medication cups, diapers, plastic waste bags, sanitary products, thermometers, hypodermic needles and syringes, and clinical reagents or similar diagnostic agents, and drugs which, according to federal law, do not require a prescription;

V. costs for education or training of nursing service personnel. Educational costs are limited to either meeting the requirements of laws or rules or keeping an employee's salary, status, or position or for maintaining or updating skills needed in performing the employee's present duties, except that training to become a nurses aid is an allowable cost;

W. the salaries and wages of persons performing nursing services including salaries of the director, and assistant director of

nursing, supervising nurses, medical records personnel, registered professional nurses, licensed practical nurses, nurses aides, orderlies, and attendants;

X. the salaries or fees of medical director, physicians, or other professionals performing consulting services on medical care which are not reimbursed separately on a fee for service basis; and

Y. the costs of travel necessary for training programs for nursing personnel required to maintain licensure, certification, or professional standards.

Subp. 6. Other care-related services. The costs listed in items A to C are to be reported in the other care-related services cost category:

A. direct costs of other care-related services, such as recreational or religious activities, arts and crafts, and social services which are not reimbursed separately on a fee for service basis;

B. the salaries and wages of recreational therapists and aides, rehabilitation therapists and aides, chaplains, arts and crafts instructors and aides, social workers and aides, and other care-related personnel including salaries or fees of professionals performing consultation services in these areas which are not reimbursed separately on a fee for service basis; and

C. the costs of training to meet the requirements of laws or rules for keeping an employee's salary, status, or position, or to maintain or update skills needed in performing the employee's present duties.

Subp. 7. General and administrative services. Direct costs for administering the overall activities of the nursing home are included in the general and administrative cost category. These direct costs include:

A. business office functions;

B. travel expenses other than travel expenses reported under subparts 1, item D and 5, item X;

C. all motor vehicle operating expenses;

D. telephone and telegraph charges;

E. office supplies;

F. insurance, except as included as a fringe benefit;

G. personnel recruitment costs including help wanted advertising;

H. the salaries, wages, or fees of administrators, assistant administrators, accounting and clerical personnel, data processing personnel, and receptionists;

I. professional fees for services such as legal, accounting, and data processing services;

J. management fees, and the cost of management and administrative consultants;

K. central, affiliated, or corporate office costs excluding the cost of depreciable equipment used by individual nursing homes which are included in the computation of the property-related payment rate under part 9549.0060 and those costs specified in part 9549.0030, subpart 4, item A.

L. business meetings and seminars;

M. postage;

N. training for management personnel and personnel not related to direct resident care if the training either meets the requirements of laws, rules, or regulations to keep an employee's salary, status, or position or maintains or updates skills needed to perform the employee's present duties;

O. membership fees for associations and professional organizations which are directly related to resident care;

P. subscriptions to periodicals which are directly related to the operation of the nursing home;

Q. telephone, television, and radio services provided in areas designated for use by the general resident population, such as lounges and recreation rooms;

R. security services or security personnel;

S. joint commission on accreditation of hospitals survey;

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- T. advertising;
- U. board of director's fees;
- V. interest on working capital debt;
- W. fees paid for the successful collection of bad debts associated with the provision of care to residents of the nursing home;
- X. the portion of preopening costs capitalized as a deferred charge and amortized over a period of 120 consecutive months beginning with the month in which a resident first resides in a newly-constructed nursing home; and
- Y. any costs which cannot be specifically classified to another cost category.

Subp. 8. Payroll taxes, fringe benefits, and clerical training. Only the costs identified in items A to I are to be reported in the payroll taxes, fringe benefits, and clerical training cost category:

- A. the employer's share of the social security withholding tax;
- B. state and federal unemployment compensation taxes or costs;
- C. group life insurance and disability insurance;
- D. group health and dental insurance;
- E. workers' compensation insurance;
- F. either a pension plan or profit-sharing plan, approved by the United States Internal Revenue Service, but not both;
- G. governmentally required retirement contributions;
- H. uniform allowance; and
- I. costs of training clerical personnel.

Subp. 9. Real estate taxes and special assessments. Real estate taxes and special assessments for each nursing home are to be reported in the real estate taxes and special assessments cost category.

9549.0041 GENERAL REPORTING REQUIREMENTS

Subpart 1. Required cost reports. No later than December 31 of each year, the nursing home shall submit an annual cost report for the reporting year ending September 30 on forms supplied by the commissioner in order to receive medical assistance program payments. In addition, the nursing home shall obtain an annual audit of its financial records from an independent certified public accountant or licensed public accountant. The examination must be conducted in accordance with generally accepted auditing standards as adopted by the American Institute of Certified Public Accountants and generally accepted accounting principles. A governmentally-owned nursing home may comply with these auditing requirements by submitting the audit report prepared by the state auditor.

Subp. 2. Required information. A complete annual report must include the following items.

- A. General nursing home information and statistical data as requested on the cost report form.
- B. Reports of historical costs with supporting calculations, worksheets, and an explanation of the historical costs.
- C. A complete statement of fees and charges, including the rate or rates charged to private paying residents, as audited by a certified or licensed public accountant as defined by Minnesota Statutes, section 412.222 for the fiscal year of the nursing home.
- D. A copy of the nursing home's audited financial statements for its fiscal year ending during the reporting year. The audited financial statements must include a balance sheet, income statement, statement of retained earnings, statement of charges in financial position (cash and working capital methods), appropriate notes to the financial statements, any applicable supplemental information, and the certified or licensed public accountant's opinion. If the financial statements are not sufficiently detailed or the nursing home's fiscal year is different from the reporting year, the nursing home shall provide supplemental information that reconciles costs on the financial statements with the cost report.
- E. A statement of ownership for the nursing home, including the name, address, and proportion of ownership of each owner.

If a privately-held or closely-held corporation or partnership has an ownership interest in the nursing home, the nursing home must report the name, address, and proportion of ownership of all owners of the corporation or partnership who have an ownership interest of five percent or more, except that any owner whose compensation or portion of compensation is claimed for reimbursement in the nursing home's cost report must be identified regardless of the proportion of ownership interest.

If a publicly-held corporation has an ownership interest of 15 percent or more in the nursing home, the nursing home must report the name, address, and proportion of ownership of all owners of the publicly-held corporation who have an ownership interest of ten percent or more.

F. Copies of leases, purchase agreements, and other documents related to the lease or purchase of the nursing home if not previously submitted.

G. A listing of nursing home debt outstanding during the reporting year, and the name of the lender, the term of debt, interest rate of debt, interest and principal payments for the current year and all remaining years, and the original amount of debt and any portion of debt as required by part 9549.0060, subpart 5.

H. An explanation of all adjustments to the historical costs.

I. The nursing home's statement of property tax payable according to subpart 5.

Subp. 3. Information which may be required. In addition to the reports required in subpart 2, the commissioner may require the following:

A. Access to certified and licensed public accountant's audit workpapers which support the audited financial statements and cost reports.

B. Separate audited financial statements that correspond to the fiscal year ended during the reporting year for any other nursing home owned in whole or part by the same owners.

C. Separate audited financial statements which correspond to the fiscal year ended during the reporting year for any related organization doing business with the nursing home if the related organization has not previously had an audited financial statement. At the commissioner's request, the related organization shall provide audited financial statements within 90 days after the end of the related organization's fiscal year.

D. Copies of leases, purchase agreements, or other documents related to the purchase or acquisition of equipment, goods, and services which are claimed as allowable costs.

E. Access to federal and state income tax returns for the nursing home, related organization, and any individual or corporation having an ownership interest in the nursing home as specified in subpart 2, item E.

F. Other relevant information necessary to support a payment request.

Subp. 4. Additional information required from hospital attached nursing homes. In addition to the reports required in subparts 2 and 3, hospital-attached nursing homes shall provide a copy of the most recent Medicare cost report filed with the Medicare program intermediary for the reporting year. If the Medicare cost report covers a period other than the nursing home's reporting year, the nursing home shall provide a copy of the Medicare cost report prepared using costs for the nursing home's reporting period in addition to supplemental information which reconciles costs on the financial statements with the reporting period costs. The nursing home must provide individual stepdowns for each cost category in part 9549.0040. The individual stepdowns must be prepared in accordance with instructions provided by the commissioner.

Subp. 5. Reporting real estate taxes and special assessments. The nursing home shall submit a copy of its statement of property tax payable for the calendar year in which the rate year begins by April 5 of that calendar year. Except as provided in this subpart, the commissioner shall disallow the costs of real estate taxes if the documentation is not submitted by April 5. The disallowance shall remain in effect until the nursing home provides the documentation and amends the cost report under subpart 14: If the county has not provided to the nursing home a statement of property tax payable by April 5, the commissioner shall use the property tax payable during the previous reporting year until the statement is received by the department. Upon receipt of the statement of property tax payable, the commissioner shall adjust the payment rate accordingly. Special assessments and related interest paid during the reporting year must be shown on the cost report.

Subp. 6. Method of accounting. The accrual method of accounting in accordance with generally accepted accounting principles is the only method acceptable for purposes of satisfying reporting requirements. If a governmentally-owned nursing home demonstrates that the accrual method of accounting is not applicable to its accounts and that a cash or modified accrual method of accounting more accurately reports the nursing home's financial operations, the commissioner shall permit the governmentally-owned nursing home to use a cash or modified accrual method of accounting.

Subp. 7. Records. The nursing home shall maintain statistical and accounting records in sufficient detail to support information contained in the nursing home's cost reports and audited statement for at least five years including the year following submission of an annual cost report.

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Subp. 8. Conflicts. If conflicts occur between parts 9549.0010 to 9549.0080 and generally accepted accounting principles, parts 9549.0010 to 9549.0080 shall prevail.

Subp. 9. Certification of reports. Reports required in this part must be accompanied by a certification of the person having over 50 percent effective ownership or the chief financial officer if there is no majority owner, and the administrator or chief operating executive. If reports have been prepared by a person other than these individuals, a separate statement signed by the preparer must accompany the report.

Subp. 10. Deadlines and extensions. The deadline for submission of reports and the extension of the deadline is governed by items A to C.

A. The nursing home shall submit required annual reports to the commissioner by December 31. The reports must cover the reporting year ending on September 30 of that year.

B. The commissioner may reject any report filed by a nursing home that is incomplete or inaccurate or may require additional information necessary to support the payment rate request. The corrected report or the additional information requested must be returned to the commissioner within 20 days of the request or the report must be rejected. The commissioner may extend this time if the nursing home makes a showing of good cause in writing and if the commissioner determines that the delay in receipt of the information will not prevent the commissioner from establishing rates in a timely manner as required by law. Failure to correct the report or provide additional information shall result in a reduction of the payment rate as specified in subpart 12.

C. The commissioner may grant one 15-day extension of the reporting deadline. To receive an extension, a nursing home must submit a written request by December 1. The commissioner must notify the nursing home of the decision to grant or deny an extension by December 15.

Subp. 11. Effective date of total payment rate. The commissioner shall provide to all nursing homes notice of the total payment rate by May 1 of each year. The total payment rate is effective from July 1 of that year to June 30 of the following year.

Subp. 12. Noncompliance. A nursing home's failure to comply with reporting requirements subjects the nursing home to items A and C.

A. If a nursing home fails to provide reports, documentation, and worksheets required in this part, the commissioner shall reduce the nursing home's total payment rate to 80 percent of the total payment rate as provided in item B.

B. The reduced total payment rate is effective:

(1) 21 days after a written request for additional information under subpart 3 is sent by the commissioner;

(2) 91 days after written notification is sent regarding inadequacies in recordkeeping or accounting practices under subpart 13; or

(3) on January 15, for failure to provide the information required in subpart 1, 2, 4, or 9.

C. Reinstatement of the total payment rate upon remedy of the failure or inadequacy is not retroactive.

Subp. 13. Audits. Nursing home audits are subject to items A to D:

A. The department shall subject all reports and supporting documentation to desk and field audits to determine compliance with parts 9549.0010 to 9549.0080. Retroactive adjustments may be made as a result of desk or field audit findings. If the audits reveal inadequacies in nursing home recordkeeping or accounting practices, the commissioner shall require the nursing home to engage competent professional assistance to properly prepare required reports.

B. Field audits may cover the four most recent annual cost reports for which desk audits have been completed and payment rates have been established.

C. Changes in the total payment rate which result from desk or field audit adjustments to cost reports for reporting years beyond the four most recent annual cost reports must be made to the four most recent annual cost reports, the current cost report, and future cost reports to the extent that those adjustments affect the total payment rate established by those reporting years.

D. The commissioner may extend the period for retention of records under part 9549.0035, subpart 3, item A, subitem (5) for purposes of performing field audits as necessary to enforce Minnesota Statutes, section 256B.48.

Subp. 14. Amended reports. Amendments to previously filed annual cost reports are governed by items A and B.

A. Nursing homes may file amendments to previously filed annual cost reports when:

(1) mathematical errors or omissions in the annual cost report are discovered, if the amendment would result in at least a five-cent per resident day or \$2,000 adjustment, whichever is less for each reporting year. The commissioner shall make retroactive adjustments to the total payment rate of an individual nursing home if the amendment is filed within one year of the filing of the original cost report to be amended; or

(2) a nursing home which qualifies for a special reappraisal under part 9549.0060, subpart 3 to adjust its property related payment rate.

B. Nursing homes must not amend a previously filed cost report for the purpose of removing costs of services for which the nursing home seeks separate billing.

Subp. 15. False reports. If a nursing home knowingly supplies inaccurate or false information in a required report that results in an overpayment, the commissioner shall:

- A. immediately adjust the nursing home's payment rate to recover the entire overpayment within the rate year;
- B. terminate the commissioner's agreement with the nursing home;
- C. prosecute under applicable state or federal law; or
- D. use any combination of items A, B, and C.

9549.0060 DETERMINATION OF THE PROPERTY-RELATED PAYMENT RATE.

Subpart 1. Initial appraised value. For the rate year beginning July 1, 1985, the commissioner shall contract with a property appraisal firm which shall use the depreciated replacement cost method to determine the appraised value of each nursing home participating in the medical assistance program as of June 30, 1985. The initial appraised value of each nursing home and any subsequent reappraisal under subparts 2 and 3 must be limited to the value of buildings, attached fixtures, and land improvements used by the nursing home and must be subject to the limits in subpart 4.

For hospital-attached nursing homes, the commissioner shall require the appraisal of those portions of buildings, attached fixtures, and land improvements in service areas shared between the nursing home and the hospital. The appraised value of the shared service areas must be allocated between the nursing home and the hospital or other nonnursing home areas using the Medicare worksheet B-1 statistics in effect on September 30 1984. The appraised value of the shared service areas must be allocated by stepdown placing the appraised values on the appropriate line of column 1 on the Medicare worksheet B. The appraised value of the shared service areas allocated to the nursing home shall be added to the appraised value of the nursing home's buildings, attached fixtures, and land improvements.

For a newly-constructed nursing home applying to participate in the medical assistance program which commenced construction after June 30, 1985, or a nursing home with an increase in licensed beds of 50 percent or more, the commissioner shall require an initial appraisal upon completion of the construction. The construction is considered complete upon issuance of a certificate of occupancy or, if no certification of occupancy is required, when available for resident use. The property-related payment rate is effective on the earlier of either the first day a resident is admitted or on the date the nursing home is certified for medical assistance.

Subp. 2. Routine updating of appraised value. For rate years beginning after June 30, 1986, the commissioner shall routinely update the appraised value according to items A to C.

A. The commissioner shall contract with a property appraisal firm which shall use the depreciated replacement cost method to perform reappraisals. Each calendar year, the commissioner shall select a random sample of not less than 15 percent of the total number of nursing homes participating in the medical assistance program as of July 1 of that year. The sample must not include nursing homes receiving an interim payment rate under subpart 14. All nursing homes in the sample must be reappraised during the last six months of the calendar year. Incomplete additions or replacements must not be included in the reappraisals.

The updated appraised value for hospital-attached nursing homes resulting from a reappraisal of shared service areas must be allocated to the nursing home in the same ratio indicated by the Medicare stepdown in effect on September 30 of the rate year in which the reappraisal is conducted. The method described in subpart 1, item B is to be used to determine allocation of the updated appraised value. The reappraised value of the shared service areas allocated to the nursing home must be added to the reappraised value of the nursing home's buildings, attached fixtures, and land improvements.

B. The commissioner shall compute the average percentage change in appraised values for the nursing homes in the sample. The appraised value of each nursing home not in the sample, and not reappraised under subpart 3, must be increased or decreased by the average percentage change subject to the limits in subpart 4. No redetermination of the average percentage change in appraised values shall be made as a result of changes in the appraised value of individual nursing homes in the sample made after the commissioner's computation of the average percentage change.

C. For hospital-attached nursing homes not in the sample, the allocation of the appraised value of the shared service areas

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must be recomputed if the hospital involved experiences a cumulative change in resident days of more than 15 percent from the reporting year in which the most recently used set of allocation statistics were determined. The allocation using the method described in subpart 1, item B, must be based on the Medicare stepdown in effect on September 30 of the rate year in which the updating of the appraised value is performed.

D. The adjustment to the property-related payment rate which results from updating the appraised value is effective for the rate year immediately following the rate year in which the updating takes place except as provided in subpart 14.

Subp. 3. Special reappraisals. Special reappraisals are subject to the requirements of items A to F.

A. A nursing home which makes an addition to or replacement of buildings, attached fixtures, or land improvements may request the commissioner to conduct a reappraisal upon project completion.

Upon receipt of a written request, the commissioner shall conduct a reappraisal within 60 days provided that all conditions of this subpart are met. The total historical cost of the addition or replacement, exclusive of the proceeds from disposals of capital assets or applicable credits such as public grants and insurance proceeds, must be the lesser of \$500,000 or 20 percent of the most recent appraised value determined under subparts 1 to 4. The addition or replacement must be complete and a certificate of occupancy issued, or if a certificate of occupancy is not required, the addition or replacement must be available for use. Special reappraisals under this item are limited to one per 12-month period.

B. A nursing home which retires buildings, attached fixtures, land improvements, or portions thereof without replacement, shall report the deletion to the commissioner within 30 days if the historical cost of the deletion exceeds \$100,000. The commissioner may conduct a reappraisal of the nursing home to establish the new appraised value and adjust the property-related payment rate accordingly.

C. The adjusted property-related payment rate computed as a result of reappraisals in items A and B is effective on the first day of the month following the month in which the addition or replacement was completed or when the deletion occurred.

D. The commissioner shall reappraise every nursing home at least once every seven calendar years following the initial appraisal. The commissioner shall reappraise a nursing home if at the end of seven calendar years the nursing home has not been reappraised at least once under subpart 2 or 3. The commissioner shall adjust the property-related payment rate to reflect the change in appraised value. The adjustment of the property-related payment rate is effective on the first day of the rate year immediately following the reappraisal.

E. The commissioner may require the reappraisal of a nursing home within 60 days of receipt of information provided by the Minnesota Department of Health regarding the violation of standards and rules relating to the condition of capital assets.

F. Changes in appraised value computed in this subpart must not be used to compute the average percentage change in subpart 2, item B.

Subp. 4. Determination of allowable appraised value. A nursing home's appraised value must be limited by items A to C.

A. For rate years beginning after June 30, 1985, the replacement cost new per bed limit for licensed beds in single bedrooms and multiple bedrooms is determined according to subitems (1) to (4):

(1) Effective January 1, 1984, the replacement cost per new bed limit for licensed beds in single bedrooms is \$41,251 and for licensed beds in multiple bedrooms is \$27,500. On January 1, 1985, the commissioner shall adjust the replacement cost new per bed limit by the percentage change in the composite cost of construction index published by the Bureau of Economic Analysis of the United States Department of Commerce in the Survey of Current Business Statistics for the two previous Octobers. The index is incorporated by reference and is available at the James J. Hill Reference Library, Saint Paul, Minnesota.

(2) The average historical cost per bed for depreciable equipment is computed by adding the historical cost of depreciable equipment for each nursing home as determined in subpart 10, item A and dividing the sum by the total number of licensed beds in those nursing homes. The amount is then subtracted from the replacement cost new per bed limits determined in subitem (1).

(3) The differences computed in subitem (2) are the replacement cost new per bed limits for licensed beds in single bedrooms and multiple bedrooms effective for the rate year beginning on July 1, 1985.

(4) On January 1, 1986, and each succeeding January 1, the commissioner shall adjust the limit in subitem (3) by the percentage change in the composite cost of construction index published by the Bureau of Economic Analysis of the United States Department of Commerce in the Survey of Current Business Statistics for the two previous Octobers.

B. Each nursing home's maximum allowable replacement cost new is determined annually according to subitems (1) to (4):

(1) The multiple bedroom replacement cost new per bed limit in item A must be multiplied by the number of licensed beds in multiple bedrooms.

(2) The single bedroom replacement cost new per bed limit in item A must be multiplied by the number of licensed beds in single bedrooms except as provided in subitem (3).

(3) The multiple bedroom replacement cost new per bed limit in item A, subitem (3) is multiplied by the number of licensed beds in single bedrooms for which construction was commenced after September 30, 1984, to the extent that licensed beds in single bedrooms exceed 15 percent of the nursing home's total number of licensed beds.

(4) The nursing home's maximum allowable replacement cost new is the sum of subitems (1), (2), and (3).

C. The nursing home's replacement cost new determined in subparts 1 to 3 must be reduced by the replacement cost new of portions of the nursing home used for functions whose costs are disallowed under parts 9549.0010 to 9549.0080.

D. The adjusted replacement cost new is the lesser of item B or C.

E. The adjusted depreciation is determined by subtracting from the depreciation in subparts 1 to 3 the amount of depreciation, if any, related to the portion of the nursing home's replacement cost new disallowed in item C or D.

F. The nursing home's allowable appraised value is determined by subtracting the amount determined in item E from the amount in item D. If no adjustment to the replacement cost new is required in items C and D, then the nursing home's allowable appraised value is the appraised value determined in subparts 1 to 3.

Subp. 5. Allowable debt. For purposes of determining the property-related payment rate, the commissioner shall allow or disallow debt according to items A to D.

A. Debt shall be limited as follows:

(1) Debt incurred for the purchase or construction of nursing home buildings, attached fixtures, or land improvements or the capitalized replacement or capitalized repair of existing buildings, attached fixtures, or land improvements shall be allowed. Debt incurred for any other purpose shall not be allowed.

(2) Working capital debt shall not be allowed.

(3) An increase in the amount of a debt as a result of refinancing of capital assets which occurs after May 22, 1983, shall not be allowed.

(4) An increase in the amount of total outstanding debt incurred after May 22, 1983, as a result of a change in ownership or reorganization of provider entities, shall not be allowed and the previous owner's allowable debt as of May 22, 1983, shall be allowed under item B.

(5) Any portion of the total allowable debt exceeding the appraised value as determined in subpart 4 shall not be allowed.

(6) Any portion of a debt of which the proceeds exceed the historical cost of the capital asset acquired shall not be allowed.

B. The nursing home shall apportion debts incurred before October 1, 1984, among buildings, attached fixtures, land improvements, depreciable equipment and working capital by direct identification. If direct identification of any part of the debt is not possible, that portion of the debt which cannot be directly identified shall be apportioned to each component, except working capital debt, based on the ratio of the historical cost of the component to the total historical cost of all components. The portion of debt assigned to buildings, attached fixtures, and land improvements is allowable debt.

C. For debts incurred after September 30, 1984, the nursing home shall directly identify the proceeds of the debt associated with specific buildings, attached fixtures, and land improvements, and keep records that separate such debt proceeds from all other debt. Only the debt identified with specific buildings, attached fixtures, and land improvement shall be allowed.

D. For reporting years ending after September 30, 1985, the total amount of allowable debt shall be the sum of all allowable debts at the beginning of the reporting year plus all allowable debts at the end of the reporting year divided by two. Nursing homes which have a debt with a zero balance at the beginning or end of the reporting year must use a monthly average for the reporting year.

Subp. 6. Limitations on interest rates. The commissioner shall limit interest rates according to items A to C.

A. Except as provided in item B, the effective interest rate of each allowable debt, including points, financing charges, and amortization bond premiums or discounts, entered into after September 30, 1984, is limited to the lesser of:

(1) the effective interest rate on the debt;

(2) a rate 2.5 percentage points above the posted yield for standard conventional fixed-rate mortgages of the Federal Home Loan Mortgage Corporation in effect on October 1 of the reporting year in which the loan is incurred. The posted yield is as published in the Wall Street Journal which is published by Dow Jones and Company, 22 Cortlandt St., New York New York, 10007. The Wall

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Street Journal is incorporated by reference, is published daily, and is available for inspection at the Ford Law Library in Saint Paul, Minnesota.

(3) 16 percent.

B. Variable or adjustable rates for allowable debt are allowed subject to item A. For each allowable debt with a variable or adjustable rate, the effective interest rate must be computed by dividing the interest expense for the reporting year by the average allowable debt computed under subpart 5, item D.

C. For rate years beginning on July 1, 1985, and July 1, 1986, the effective interest rate for debts incurred before October 1, 1984, is allowed if the interest rate is not in excess of what the borrower would have had to pay in an arms-length transaction in the market in which the debt was incurred. For rate years beginning after June 30, 1987, the effective interest rate for debts incurred before October 1, 1984, is allowed subject to item A.

Subp. 7. Allowable interest expense. The commissioner shall allow or disallow interest expense including points, finance charges, and amortization bond premiums or discounts under items A to G.

A. Interest expense is allowed only on the debt which is allowed under subpart 5 and within the interest rate limits in subpart 6.

B. When a nonprofit provider borrows from its own restricted fund, interest expense paid by the general fund to the restricted fund which exceeds the interest rate limits in subpart 6, item A, or the interest rate the restricted fund is currently earning is not allowed. Interest expense on loans between operating and building funds shall not be allowed.

C. Construction period interest expense must be capitalized as a part of the cost of the building. The period of construction extends to the earlier of either the first day a resident is admitted to the nursing home, or the date the nursing home is certified to receive medical assistance recipients.

D. Interest expense for allowable debts entered into after May 22, 1983, is allowed for the portion of the debt which together with all outstanding allowable debt does not exceed 100 percent of the most recent allowable appraised value as determined in subparts 1 to 4.

E. Increases in interest expense after May 22, 1983, which are the result of changes in ownership or reorganization of provider entities, are not allowable.

F. Except as provided in item G, increases in total interest expense which are the result of refinancing of debt for buildings, attached fixtures, or land improvements after May 22, 1983, are not allowed. The total interest expense must be computed as the sum of the annual interest expense over the remaining term of the debt refinanced.

G. Increases in total interest expense which result from refinancing a balloon payment on allowable debt after May 22, 1983, shall be allowed according to subitems (1) to (3):

(1) The interest rate on the refinanced debt shall be limited under subpart 6, item A.

(2) The refinanced debt shall not exceed the balloon payment.

(3) The term of the refinanced debt must not exceed the term of the original debt computed as though the balloon payment did not exist.

Subp. 8. Building capital allowance for owner-operated nursing homes or nursing homes leased from related organizations. Except as provided in subpart 14, for the rate years beginning after June 30, 1985, the building capital allowance must be computed as follows:

A. The rental factor is 5.33 percent.

B. The difference between the nursing home's allowable appraised value determined under subparts 1 to 4 and the allowable debt determined in subpart 5 is multiplied by the rental factor.

C. The amount determined in item B must be added to the total allowable interest expense determined under subparts 6 and 7.

D. The amount determined in item C must be divided by 96 percent of capacity days.

Subp. 9. Building capital allowance for nursing homes leased from nonrelated organizations. Except as provided in subpart 14, for rate years beginning after June 30, 1985, lease or rental costs incurred for buildings, attached fixtures, or land improvements must be paid as determined by items A to C.

A. The allowable appraised value of the nursing home must be established according to subparts 1 to 4.

B. The allowable interest expense determined under subparts 6 and 7 and the allowable debt determined under subpart 5 for the leased nursing home must be considered zero.

C. The lease payment must be the lesser of the actual lease expense divided by 96 percent of capacity days, or the allowable appraised value multiplied by the rental factor and then divided by 96 percent of capacity days.

Subp. 10. Equipment allowance. For rate years beginning after June 30, 1985, the equipment allowance must be computed according to items A to E.

A. The historical cost of depreciable equipment for nursing homes which do not have costs for arms-length leases for depreciable equipment in excess of \$10,000 during the reporting year ending September 30, 1984, is determined under subitems (1) or (2):

(1) The total historical cost of depreciable equipment reported on the nursing home's audited financial statement for the reporting year ending September 30, 1984, must be multiplied by 70 percent. The product is the historical cost of depreciable equipment.

(2) The nursing home may submit an analysis which classifies the historical cost of each item of depreciable equipment reported on September 30, 1984. The analysis must include an itemized description of each piece of depreciable equipment and its historical cost. The sum of the historical cost of each piece of equipment is the total historical cost of depreciable equipment for that nursing home.

B. The historical cost per bed of depreciable equipment for each nursing home must be computed by dividing the total historical cost of depreciable equipment determined in item A by the nursing home's total number of licensed beds on September 30, 1984.

C. All nursing homes must be grouped in one of the following:

- (1) nursing homes with total licensed beds of less than 61 beds;
- (2) nursing homes with total licensed beds of more than 60 beds and less than 101 beds; or
- (3) nursing homes with more than 100 total licensed beds.

D. Within each group determined in item C, the historical cost per bed for each nursing home determined in item B must be ranked and the median historical cost per bed established.

E. The median historical cost per bed for each group in item C as determined in item D must be increased by ten percent. For rate years beginning after June 30, 1986, this amount shall be adjusted annually by the percentage change indicated by the urban consumer price index for Minneapolis-Saint Paul, as published by the Bureau of Labor Statistics, new series index (1967 = 100) for the two previous Octobers. This index is incorporated by reference and available at the James J. Hill Reference Library, Saint Paul, Minnesota.

F. The equipment allowance for each group in item C shall be the amount computed in item E multiplied by 15 percent and divided by 350.

Subp. 11. Capacity days. The number of capacity days is determined under items A and B.

A. The number of capacity days is determined by multiplying the number of licensed beds in the nursing home by the number of days in the nursing home's reporting period.

B. Nursing homes shall increase the number of capacity days by multiplying the number of licensed single bedrooms by 0.5 and by the number of days in the nursing home's reporting period, except to the extent that single bedrooms are adjusted under subpart 4, item B, subitem (3).

Subp. 12. Capitalization. For rate years after June 30, 1985, the cost of purchasing or repairing capital assets shall be capitalized under items A to D.

A. The cost of purchasing a capital asset must be capitalized if the capital asset normally has a useful life of more than one year and costs more than \$300.

B. The nursing home may consider as an expense a repair that costs \$500 or less. Repairs that are considered as an expense must be classified in the plant operation and maintenance cost category. A repair which exceeds \$500 must be capitalized provided that the repair extends the useful life or adds to the value of the capital asset.

C. The property-related expenditures related to capital assets such as lease or depreciation, interest, and real estate taxes which are used by central, affiliated, or corporate offices must be classified in the nursing home's general and administrative cost category.

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D. Construction period interest expense, feasibility studies, and other costs related to the construction period must be capitalized.

Subp. 13. Determination of the property-related payment rate. The commissioner shall determine the property-related payment rate according to items A to H.

A. Except as provided in subpart 14, the building capital allowance of each nursing home shall be added to the equipment allowance.

B. The allowable historical property-related per diem shall be established according to subitems (1) and (2).

(1) For the rate year beginning July 1, 1985, the nursing home's historical property-related per diem shall be determined by adding the allowable historical property-related costs used to compute the property-related payment rate effective on June 30, 1985, and dividing the sum by 96 percent capacity days.

(2) For rate years beginning after June 30, 1986, the historical property-related cost per diem shall be the property-related payment rate established for the previous rate year.

C. For rate years beginning after June 30, 1985, the property-related payment rate shall be the lesser of the amount computed in item A or the historical property-related per diem in item B increased by six percent except as provided in items D to G.

D. A nursing home whose allowable historical property-related per diem determined in item B is less than or equal to \$2.25 shall receive a payment rate equal to the greater of \$2.25 or its allowable historical property-related per diem increased by six percent except that the property-related payment rate shall not exceed the amount determined in item A.

E. A nursing home whose allowable historical property-related per diem determined in item B is greater than the amount determined in item A shall receive a property-related payment rate equal to its allowable historical property-related per diem.

F. In the event of a change of ownership or reorganization of the provider entity occurring after June 30, 1985, the nursing home's property-related payment rate must be the lesser of the property-related payment rate in effect at the time of sale or reorganization or the amount determined in item A. Changes in the property-related payment rate as a result of this item shall be effective on the date of the sale or reorganization of the provider entity.

G. The property-related payment rate for a nursing home which qualifies for the special reappraisal in subpart 3, item A shall be determined according to subitems (1) and (2).

(1) If the amount computed according to item A using the reappraised value is equal to or less than the property-related payment rate in effect prior to the reappraisal, the property-related payment rate in effect prior to the reappraisal shall not be adjusted.

(2) If the amount computed according to item A using the reappraised value is greater than the property-related payment rate in effect prior to the reappraisal, the property-related payment in effect prior to the reappraisal shall be added to the difference between the amount computed according to item A using the reappraised value and the amount computed according to item A using the most recent appraised value prior to the reappraisal. This sum must not exceed the amount computed in item A using the reappraised value. If the difference between the amount computed according to item A using the reappraised value and the amount computed according to item A using the most recent appraised value prior to the reappraisal is equal to or less than zero, the difference shall be considered zero.

H. For rate years beginning after June 30, 1990, the property-related payment rate shall be the sum of the building capital allowance and the equipment allowance.

Subp. 14. Determination of interim and settle-up payment rates. The commissioner shall determine interim and settle-up payment rates according to items A to J.

A. A newly-constructed nursing home, or one with a capacity increase of 50 percent or more, may submit a written application to the commissioner to receive an interim payment rate. The nursing home shall submit cost reports and other supporting information as required in parts 9549.0010 to 9549.0080 for the reporting year in which the nursing home plans to begin operation at least 60 days before the first day a resident is admitted to the newly-constructed nursing home bed. The nursing home shall state the reasons for noncompliance with parts 9549.0010 to 9549.0080. The effective date of the interim payment rate is the earlier of either the first day a resident is admitted to the newly-constructed nursing home or the date the nursing home bed is certified for medical assistance. The interim payment rate for a newly-constructed nursing home, or a nursing home with a capacity increase of 50 percent or more, is determined under items B to D.

B. The interim payment rate must not be in effect more than 17 months. When the interim payment rate begins between May 1 and September 30, the nursing home shall file settle-up cost reports for the period from the beginning of the interim payment rate through September 30 of the following year. When the interim payment rate begins between October 1 and April 30, the nursing home shall file settle-up cost reports for the period from the beginning of the interim payment rate to the first September 30 following the beginning of the interim payment rate.

C. The interim payment rate for a nursing home which commenced construction prior to July 1, 1985, is determined by 12 MCAR § 2.05014 [Temporary] except that capital assets must be classified under parts 9549.0010 to 9549.0080.

D. The interim property-related payment rate for a nursing home which commences construction after June 30, 1985, is determined as follows:

(1) At least 60 days before the first day a resident is admitted to the newly-constructed nursing home bed and upon receipt of written application from the nursing home, the commissioner shall establish the nursing home's appraised value according to subparts 1 and 4.

(2) The nursing home shall project the allowable debt and the allowable interest expense according to subparts 5 and 7.

(3) The interim building capital allowance must be determined under subpart 8 or 9.

(4) The equipment allowance during the interim period must be the equipment allowance computed in accordance with subpart 10 which is in effect on the effective date of the interim property-related payment rate.

(5) The interim property-related payment rate must be the sum of subitems (3) and (4).

(6) Anticipated resident days may be used instead of 96 percent capacity days.

E. The settle-up property-related payment rate and the property-related payment rate for the nine months following the settle-up for a nursing home which commenced construction before July 1, 1985, is determined under 12 MCAR § 2.05014 [Temporary]. The property-related payment rate for the rate year beginning July 1 following the nine-month period is determined under part 9549.0060.

F. The settle-up property-related payment rate for a nursing home which commenced construction after June 30, 1985, shall be established as follows:

(1) The appraised value determined in item D, subitem (1) must be updated in accordance with subpart 2, item B prorated for each rate year, or portion of a rate year, included in the interim payment rate period.

(2) The nursing home's allowable debt, allowable interest rate, and allowable interest expense for the interim rate period shall be computed in accordance with subparts 5, 6, and 7.

(3) The settle-up building capital allowance shall be determined in accordance with subpart 8 or 9.

(4) The equipment allowance shall be updated in accordance with subpart 10 prorated for each rate year, or portion of a rate year, included in the interim payment rate period.

(5) The settle-up property-related payment rate must be the sum of subitems (3) and (4).

(6) Resident days may be used instead of 96 percent capacity days.

G. The property-related payment rate for the nine months following the settle-up for a nursing home which commenced construction after June 30, 1985, shall be established in accordance with item F except that 96 percent capacity days must be used.

H. The property-related payment rate for the rate year beginning July 1 following the nine-month period in item G must be determined under this part.

I. A newly-constructed nursing home or one with a capacity increase of 50 percent or more must continue to receive the interim property-related payment rate until the settle-up property-related payment rate is determined under this subpart.

J. The interim real estate taxes and special assessments payment rate shall be established using the projected real estate taxes and special assessments cost divided by anticipated resident days. The settle-up real estate taxes and special assessments payment rate shall be established using the real estate taxes and special assessments divided by resident days. The real estate and special assessments payment rate for the nine months following the settle-up shall be equal to the settle-up real estate taxes and special assessments payment rate.

9549.0061 PAYMENT FOR REAL ESTATE TAXES AND SPECIAL ASSESSMENTS.

The total real estate taxes and actual special assessments must be divided by actual resident days to compute the payment rate for real estate taxes and special assessments.

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9549.0070 COMPUTATION OF TOTAL PAYMENT RATE.

Subpart 1. Total payment rate. The total payment rate is the sum of the operating cost payment rate, the property-related payment, and the real estate tax and special assessments payment rate. The total payment rate becomes effective on July 1 of the rate year following the reporting year.

Subp. 2. Private payment rate limitation. The total payment rate must not exceed the rate paid by private paying residents for similar services for the same period. The private payment rate limitation shall not apply to retroactive adjustments to the total payment rate established in parts 9549.0010 to 9549.0080 unless the total payment rate being adjusted was subject to the private payment rate limitation.

Subp. 3. Private room payment rate. A private room payment rate of 115 percent of the established total payment rate for a resident must be allowed if the resident is a medical assistance recipient and the private room is considered as a medical necessity for the resident or others who are affected by the resident's condition. Conditions requiring a private room must be determined by the resident's attending physician and approved by the county welfare or human services board.

Subp. 4. Adjustment of total payment rate. If the commissioner finds nonallowable costs, errors, or omissions in the nursing home's historical costs, the nursing home's affected total payment rates must be adjusted. If the adjustment results in an underpayment to the nursing home, the commissioner shall pay to the nursing home the underpayment amount within 120 days of written notification to the nursing home. If the adjustment results in an overpayment to the nursing home, the nursing home shall pay to the commissioner the entire overpayment within 120 days of receiving the written notification from the commissioner. Interest charges must be assessed on underpayment or overpayment balances outstanding after 120 days written notification of the total payment rate determination.

If an appeal has been filed under part 9549.0080, any payments owed by the nursing home or by the commissioner must be made within 120 days of written notification to the nursing home of the commissioner's ruling on the appeal. Interest charges must be assessed on balances outstanding after 120 days of written notification of the commissioner's ruling on the appeal. The annual interest rate charged must be the rate charged by the commissioner of the department of revenue for late payment of taxes, which is in effect on the 121st day after the written notification.

9549.0080 APPEAL PROCEDURES.

Subpart 1. Scope of appeals. A decision by the commissioner may be appealed by the nursing home or a county welfare or human services board where all of the following conditions are met:

- A. The appeal, if successful, would result in a change in the nursing home's total payment rate.
- B. The appeal arises from application of the provisions of parts 9549.0010 to 9549.0080, or 12 MCAR §§ 2.05001-2.05016 [Temporary], or parts 9510.0010 to 9510.0480.
- C. The dispute over the decision cannot be resolved informally between the commissioner and the appealing party.

Subp. 2. Filing of appeal. To be effective, an appeal must meet the following criteria:

A. The nursing home must notify the commissioner of its intent to appeal in writing within 30 days of receiving the payment rate determination or decision which is being appealed. The written appeal must be filed within 60 days of receiving the payment rate determination or decision being disputed.

B. The appeal must specify:

- (1) each disputed item and the reason for the dispute;
- (2) the computation and the amount that the appealing party believes to be correct;
- (3) an estimate of the dollar amount involved in each disputed item;
- (4) the authority in statute or rule upon which the appealing party is relying in each dispute; and
- (5) the name and address of the person or firm with whom contacts may be made regarding the appeal.

Subp. 3. Resolution of appeal. The appeal must be heard according to the contested case provisions in Minnesota Statutes, chapter 14 and the rules of the Office of Administrative Hearings. Upon agreement of both parties, the dispute may be resolved informally through settlement or through modified appeal procedures established by agreement between the commissioner and the chief administrative law judge.

Subp. 4. Payment rate during appeal period. Notwithstanding any appeal filed under parts 9549.0010 to 9549.0080, the total payment rate established by the commissioner shall be the rate paid to the nursing home while the appeal is pending. A nursing home appealing under this part is subject to the limitation in part 9549.0070, subpart 2 pending resolution of the appeal. The nursing home must give private paying residents notice, as required by Minnesota Statutes, section 256B.47, subdivision 2, of the total payment rate established by the commissioner that will be charged pending appeal. The nursing home may give private paying

residents notice, as required by Minnesota Statutes, section 256B.47, subdivision 2, of the total payment rate that will be charged if the nursing home prevails in the appeal. If notice is given and the nursing home prevails in the appeal, the nursing home may adjust the private payment rate retroactive to the first day of the period covered by the appeal or to the 31st day after giving the notice, whichever is later.

Subp. 5. Payments after resolution of appeal. Upon resolution of the appeal, any overpayments or underpayments must be made according to part 9549.0070.

Department of Labor and Industry Code Enforcement Division

Proposed Rules Governing Steam Boilers and Operators

Notice of Hearing

Notice is hereby given that a public hearing will be held in the above-captioned matter pursuant to Minn. Stat. § 14.14, Subd. 1 (1984). The hearing will take place in the Conference Room in the Cable Communication Building, 500 Rice Street, St. Paul, Minnesota on March 7, 1985, commencing at 9:00 a.m., and continuing until all interested persons and groups have had an opportunity to be heard. Interested persons or groups are encouraged to participate in the hearing process by submitting oral or written statements, data, and arguments before, during, and after the hearing. The proposed rules may be modified as a result of the hearing process.

After the agency has completed its presentation of the evidence in support of the proposed rules at the hearing, interested persons and groups shall be invited to ask questions, to comment orally or in writing, and to submit written material. In addition, written material may be recorded in the hearing record if submitted before the hearing or within five (5) working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the administrative law judge at the hearing. The agency and interested parties may also respond in writing within three business days after the submission period ends to any new information submitted. However, no additional evidence may be submitted during the final three day period. Written material may be submitted to:

Howard L. Kaibel
Administrative Law Judge
Office of Administrative Hearings
400 Summit Bank Building
310 Fourth Avenue South
Minneapolis, Minnesota 55415
Telephone: (612) 341-7608

Statutory authority to promulgate the proposed amendments appears in Minn. Stat. § 183.44, Subd. 2 (1984). These proposed amendments establish the necessary qualifications and procedures for the licensing of boiler engineers and pilots of inland vessels in Minnesota. They also provide procedures by which to complain about the conduct of a boiler or pressure vessel engineer or vessel pilot.

Guidelines for computing the horsepower of a boiler plant are included in the amendments. This computation determines the quantity of engineer monitoring needed for safe operation as well as the minimum qualifications of the engineer.

The amendments also establish the maximum time period during which engineers may be absent from the boiler room or plant and the maximum distance allowed.

Qualifications for boiler and pressure vessel inspectors as well as procedural and substantive standards for repair and construction of boiler and pressure vessels are contained in the amendments. The procedures for sealing unsafe boiler or pressure vessels and the administrative remedies available to contest the action of the inspector are included. Various reporting requirements to the Code Enforcement Division are set out in the amendments.

The proposed amendments also establish minimum standards for boilers, such as low water safety devices, blowoff tanks, water

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outlets, gages, safety valves, and other necessary equipment and specifications. In addition, the amendments address standards for electrically heated generators.

The portion of the rules governing safety of inland vessels establishes equipment and operation standards, as well as crew requirements, passenger limitations, and mandatory reporting of property damage, personal injury, or improper conduct by a pilot.

A copy of the proposed rules follows this notice in the *State Register*. One free copy of the proposed rules may be obtained by contacting Paul Blossfield, Code Enforcement Division Administrator, 444 Lafayette Road, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing.

Minn. Stat. § 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, Subd. 11 (1984) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five (5) hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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

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

Any person may request notification of the date on which the administrative law judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the agency has adopted the rules and filed them with the secretary of state. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may direct your request to the administrative law judge (in the case of the administrative law judge's report) or to the agency (in the case of the agency's filing with the secretary of state).

A Statement of Need and Reasonableness is available for review at the agency. This statement includes a summary of the evidence and argument which the agency expects to present at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the agency at a minimal charge. The Statement of Need and Reasonableness has been submitted to the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at a minimal charge.

Pursuant to Minn. Stat. § 14.115, Subd. 1 (1984), the impact on small business has been considered in the promulgation of the rules and is set forth in the Statement of Need and Reasonableness. Anyone wishing to present evidence or argument as to the effect of the rules on small business may do so at the hearing.

Pursuant to Minn. Stat. § 14.115, Subd. 4(a) (1984), notice is hereby given that the proposed rules will have an impact on small businesses.

The classes of person likely to be affected include small business with boilers or pressure vessels, small insurance companies, and owners of boats used on Minnesota rivers and lakes.

The majority of the proposed amendments simply clarify or codify the existing standards in the industry or are changes necessitated by statutory changes. Nevertheless, the following provisions may affect small businesses:

Businesses which employ boiler operators must post the license of the operator in each boiler room and maintain a daily log book of inspections.

The license fee rules have been changed. However, because the fees are limited by Minn. Stat. § 16A.128 to an amount to cover costs only, the impact on small businesses would be minimal.

The provisions regarding absence of engineers from boiler plants contained in part 5225.1100 are liberalized, thereby lessening the burden on small businesses.

The reporting requirements of part 5225.1350, governing the reporting of boiler and pressure vessel accidents to the state, are added. Small insurance companies will be affected by this rule.

Changes in the rule requiring inspection of repairs according to national standards as witnessed by a National Board of Boiler and Pressure Vessel Inspector may impose additional costs upon small businesses.

The proposed rules require reporting of repairs to the Code Enforcement Division to monitor the location and condition of boilers and pressure vessels. This additional reporting requirement is applicable to all welded repairs and would affect both small and large businesses.

The procedure to appeal from inspectors' decisions to the chief inspector has been simplified, thereby reducing the burden on small businesses.

Changes in the boating rules have been made which mandate additional equipment in accordance with Coast Guard requirements. These provisions may have a financial impact on small businesses.

Pursuant to Minn. Stat. § 14.11, Subd. 1 (1984), the agency has determined that these rules will not have an impact on local public bodies.

The rules hearing procedure is governed by the Administrative Procedure Act, in Minn. Stat. §§ 14.02, 14.04 to 14.36, 14.38, 14.44 to 14.45, 14.48 to 14.56 (1984), and by Minnesota Rules, parts 1400.0200-1400.1200. Questions about procedures may be directed to Howard L. Kaibel, Administrative Law Judge at the above address.

January 17, 1985

Steve Keefe
Commissioner of Labor and Industry

Rules as Proposed

5225.0090 INCORPORATION BY REFERENCE.

Subpart 1. General. The codes and publications described in this part are incorporated by reference in parts 5225.0100 to 5225.5200.

Subp. 2. American Society of Mechanical Engineers Code. This code is written and published by the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, New York 10017. It is available for inspection and copying at the Hill Reference Library, 80 West Fourth Street, St. Paul, Minnesota 55102. It is subject to frequent change. The publication dates vary by subject. The most recent publication is incorporated.

Subp. 3. National Board Inspection Code. This code is written and published by the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229. It is available for inspection and copying at the State of Minnesota Law Library, 117 University Avenue, St. Paul, Minnesota 55155. It is subject to frequent change. The publication date varies. The most recent publication is incorporated.

Subp. 4. American Standards. This code is written and published by American National Standards Institute, 1430 Broadway, New York, New York 10018. It is available for inspection and copying at the Hill Reference Library, 80 West Fourth Street, St. Paul, Minnesota 55102. It is subject to frequent change. The publication dates vary by subject. The most recent publication is incorporated.

5225.0100 APPLICATION FOR STEAM BOILER ENGINEER OR PILOT LICENSE.

~~Any~~ A person desiring to take an examination for a license as a ~~steam~~ an engineer or pilot ~~shall make~~ shall written application ~~therefor~~ under oath, on ~~blanks~~ an application furnished by the boiler inspector.

The application ~~shall~~ must be accompanied by a corroborating affidavit of at least one ~~employee of a steam~~ an engineer possessing not less than a second class Minnesota engineer's license, or pilot, ~~as the case may be~~, certifying to the applicant's experience as stated in his the application. If ~~such~~ the affidavits are not obtainable, satisfactory evidence of the applicant's experience must be furnished.

Maximum time credit of one year will be allowed license applicants operating boilers in Minnesota, without a Minnesota stationary engineers license.

Maximum time credit of three years will be allowed a holder of a special class license when applying for a higher class of license.

Maximum time credit of three years will be allowed license applicants for their experience obtained outside of Minnesota.

National Board of Boiler and Pressure Vessel Inspectors' commissioned inspectors will be allowed up to two years of equivalent boiler inspection experience when applying for a higher class license. Maximum time credit will be allowed an applicant for one grade of license higher than the license required for the operation of the boiler stated on the affidavit.

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Operating time shall be considered as the time the boiler operator's primary duty is the care and operation of a boiler or boilers. Two thousand hours of operating time shall be considered equal to one year of experience.

5225.0200 LICENSE FEES.

The fee for the examination for an engineer's license shall be: chief engineer, \$16; first class, \$11; second class, \$11; special, \$5; and for a license as a pilot, \$5. These fees shall also apply to all subclasses of licenses named in Minnesota Statutes, section 183.51, subdivision 1, clause (1), which come within these respective classes is as set in Minnesota Statutes, section 183.545, subdivisions 2 and 4 until August 1, 1985, when the commissioner shall set fees.

5225.0300 EXPIRATION AND RENEWALS.

Subpart 1. Timing. All licenses for engineers and pilots, unless sooner revoked, shall be ~~are~~ for a period of one year from the date of issuance, with privilege of renewal without examination upon application ~~therefor to~~ at 444 Lafayette Road, 5th 4th floor, and payment of a fee not later than ten consecutive calendar days after the expiration of ~~such the~~ license. The renewal license shall ~~will~~ be given a consecutive issue number and the same monthly date as the original issue. Applications for renewal shall ~~not cannot~~ be presented prior to 30 days of ~~before~~ the expiration date of the license. Engineers who fail to renew their licenses within the ten days of ~~grace herein provided for~~ after the expiration date shall be subject to the following subparts 2 and 3.

Subp. 2. Expirations within less than five years. Licenses which have expired less than five years prior to date of application for renewal ~~may will~~ be renewed without the necessity of an examination upon filing an application ~~therefore~~, accompanied by the ~~expired~~ fee required in part 5225.0200. Applications shall ~~will~~ be marked "expired renewal" and do not have to be signed.

Subp. 3. Expirations of five years or more. Licenses which have expired five years or more prior to the date of application for renewal may be renewed by filing an application ~~therefor~~, accompanied by the fee required by part 5225.0200, and receiving a passing grade on the examination.

5225.0500 EXAMINATIONS.

Subpart 1. Preparation of written examination. The examination questions shall ~~will~~ be prepared by the code enforcement chief or deputy chief of the Division of Boiler Inspection. All examinations shall ~~must~~ be written unless the applicant is unable to write, in which case the examination ~~may will~~ be oral, provided a written record of the ~~same~~ examination is made, and examination papers shall ~~will~~ be kept on file for a period of at least one year.

Subp. 2. Minimum grade. No license of the class applied for shall ~~will~~ be granted to any applicant who fails to obtain a grade of 75 percent in an examination ~~therefor~~, nor shall ~~may~~ any other class be granted.

Subp. 3. Effect of failure. Applicants who fail to pass an examination shall not be eligible to take another examination for the same class of license within the following periods ~~thereafter~~:

- A. special ~~30-horsepower~~ engineer's (~~third class~~) or pilot's license, 30 ten days;
- B. first and second class license, 60 30 days; and
- C. chief's license, 90 60 days.

Failure of an applicant to obtain a passing ~~mark~~ shall grade will not affect the status of any license previously granted to him, but the fee paid for ~~such the~~ examination shall ~~will~~ not be refunded.

5225.0600 PROHIBITION AGAINST FALSE STATEMENTS IN APPLICATION.

Any ~~deliberate~~ false statement in an application, or in ~~any~~ supporting affidavit presented in ~~connection therewith~~, shall ~~render,~~ renders the license issued ~~thereon~~ void.

5225.0700 LOSS OR DESTRUCTION OF LICENSE.

Upon presentation of a statement of fact showing that a license has been lost, destroyed, or not received, a substitute license ~~may~~ will be issued by the code enforcement chief of the Division of Boiler Inspection without cost to the licensee. The chief may require the presentation to be by affidavit if he deems the circumstances warrant it inspector for a fee of \$5.

5225.0800 COMPLAINTS ABOUT LICENSE HOLDERS.

Subpart 1. Investigation. Upon the filing of a complaint in writing in the office of the ~~commission~~ code enforcement chief inspector by a boiler inspector charging the holder of a license of any grade with failing to use ordinary care or precaution in the operation of any boiler or pressure vessel, or being habitually under the influence of intoxicating liquor or drugs while on duty, or ~~conducting himself operating~~ in ~~such~~ a manner while on duty as to which might endanger human life, ~~limb~~, or property, the code

enforcement chief of the Division of Boiler Inspection inspector shall make such inquiry or investigation as he deems necessary.

Subp. 2. Report to commissioner. If after such inquiry or investigation the code enforcement chief of the Division of Boiler Inspection inspector believes that the holder of the license should be penalized for the alleged misconduct, he the chief shall so report to the commissioner.

Subp. 3. Order to show cause. Upon receipt of the report of the code enforcement chief of the Division of Boiler Inspection inspector the commission commissioner shall issue a written order upon the party person accused of such misconduct to show cause why the that person's license issued to him should not be suspended or revoked and canceled. Such The order to show cause shall must be served by registered mail or in person. It shall must state the nature of the charges made against the licensee and shall be noticed for hearing as may be ordered by the commission at a stated time and place within five days after the date of its service or as soon thereafter as possible. A copy of the order shall also be mailed to the employer or owner of the boiler or pressure vessel that the matter may be referred to the Office of Administrative Hearings for hearing upon the request of the person accused of misconduct, pursuant to parts 1400.5100 to 1400.8500. The accused party may request a hearing within ten days after service of the order to show cause. If a hearing is not requested, the commissioner shall issue an order suspending or revoking the license. If a hearing is requested, the commissioner shall issue an order which shall be served on all parties by regular mail after receipt of the findings of fact and recommendations. The order shall be the order of the commissioner in a contested case.

Subp. 4. [See repealer.]

Subp. 5. Complaints in affidavit form. When a complaint is made to the code enforcement chief of the Division of Boiler Inspection inspector by anyone other than a district or a deputy boiler inspector charging the holder of a license with such misconduct as to endanger which endangers human life, limb, or property, such the complaint shall must be in affidavit form. The affidavit must detail the nature of the complaint, name the witnesses the complainant will produce to substantiate the complaint, and give a brief summary of the testimony that will be submitted. The procedure to be followed thereafter following the complaint by affidavit will be the same as with the complaints filed by district or deputy boiler inspectors.

5225.0900 DISPLAY OF LICENSE.

Licenses granted shall must be placed in a glassed frame and be displayed in a conspicuous place in the engine or boiler room, or pilot's station. Boiler plants operated by a contract boiler operator must have copies of the engineer's license posted in each boiler room. When boilers are in operation, the boiler room log book shall be filled in and signed daily by the responsible licensed engineer.

5225.1000 BOILER HORSEPOWER RATING.

Inspectors, In rating the boiler horsepower of a boiler plant, inspectors shall use the manufacturer's normal boiler horsepower of each boiler and compute the total horsepower as that of the combined horsepower of all boilers connected with the header, whether all such the boilers are in use or not. If the manufacturer's rating cannot be found, ten square feet of heating surface (fire side of tube) shall be considered equivalent to one boiler horsepower. It shall be is the duty of all boiler inspectors, including those employed by the insurance companies, to promptly report to the code enforcement chief of the Division of Boiler Inspection inspector, any plant in which the engineer has no license or his a license is of a lower class than that required by law for the horsepower of said the plant.

5225.1100 ABSENCE FROM PLANT.

Subpart 1. Boiler operation; standards. All boilers, unless specifically excepted by Minnesota Statutes, section 183.56, must be operated and attended by a properly licensed engineer, in a prudent and attentive manner, to avoid endangering human life or property. As a minimum, all operating boilers must be properly checked daily by the properly licensed engineer.

Subp. 2. Absence permitted; 30 to 200 horsepower. High pressure boiler plants of 30 horsepower to 200 horsepower may be left in operation unattended for no more than two consecutive hours when the premises are occupied by employees or the public. The two-hour period does not apply if the employees are custodians, maintenance, and security personnel.

Subp. 3. Absence; over 200 horsepower; engineer in charge. A shift The properly licensed engineer in charge of a high pressure boiler plant of 150 boiler over 200 horsepower or more in operation shall not leave said plant for more than 15 minutes must stay within 500 feet of the plant at any one time or be more than 200 feet away therefrom without leaving all times while on duty on. The engineer in charge may, however, leave the plant for up to 30 minutes at a time so long as he or she stays within 500 feet of the plant.

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but this does not allow nearly continuance absence. The engineer in charge must remain in the plant except during reasonable periods of absence not to exceed 30 minutes.

When the engineer is away from the plant a shift engineer must be left on duty and the shift engineer with must have a license not lower than one grade class below that required for the shift engineer in charge.

Subp. 4. Absence; shift engineer; over 200 horsepower. The shift engineer in a high pressure boiler plant of over 200 horsepower may leave the boiler room for up to 30 minutes. However, the shift engineer must stay within 500 feet of the boiler room at all times, but this does not allow nearly continuous absence. The shift engineer must remain in the boiler room at all times while on duty except during reasonable periods of absence not to exceed 30 minutes.

Subp. 5. Absence; over 200 horsepower as defined in subparts 3 and 4. The absence from the plant can be extended from 30 minutes to 45 minutes, twice per eight-hour shift, with the provision that the location of the boiler operator be equipped with the following:

- A. a steam pressure gauge directly connected to the boiler or boilers;
- B. a remote water level indicator with an audible alarm for both high and low water level; and
- C. the boiler or boilers be equipped with dual low water cutouts, one of which must be manually reset.

Subp. 6. Exemption. A high pressure boiler not exceeding 200 horsepower is exempt from the high pressure attendance requirements of subparts 2, 3, and 4 and is subject to the low pressure operator attendance requirements under the following conditions:

A. The boiler is equipped with dual pressure controls and dual low water fuel cutouts, one of which must be the manually reset type.

B. The boiler is equipped with fail safe type safety controls or valves regulating pressure, temperature, water level, and control supply lines. Fuel control and safety devices must meet the American Society of Mechanical Engineers Code minimum requirements for automatically fired boilers.

C. The valves and controls must be manually switched over by the properly licensed engineer, and dates and time entered in the boiler room log book, and the entry signed by the operating engineer.

D. The premise is not occupied by the employees or the public except for custodian, maintenance, and security personnel.

E. The boiler is for supplying steam directly to a low pressure header with header safety valves set at 15 pounds per square inch and is of adequate capacity to prevent a pressure rise above 15 pounds per square inch in the system. The shutoff valve between the high and low pressure systems may be manually or electrically operated and must be interlocked electrically with the low pressure control system so that the crossover valve is in the open position while operating on low pressure.

5225.1200 INSURANCE COMPANY INSPECTORS.

Subpart 1. License requirement. Inspectors in the employ of the insurance companies shall possess a chief engineer's license or a certificate of competency from National Board of Boiler and Pressure Vessels Inspectors' commission issued by the National Board of Boiler and Pressure Vessel Inspectors, and shall place on inspection reports the serial number of their license or certificate National Board of Boiler and Pressure Vessel Inspectors' commission or Minnesota state certificate of competency which has been issued by the Division of Boiler Inspection, according to Minnesota Statutes, section 183.38, subdivision 2.

Subp. 2. Examination. State or insurance company boiler inspectors seeking a license as authorized shop inspectors on new construction of steam boilers and/or pressure vessels shall qualify by passing a written examination prepared by the National Board of Boiler and Pressure Vessel Inspectors. Such The examinations shall will be held at Saint Paul, Minnesota, by the Code Enforcement Division of Boiler Inspection at such times as the division may prescribe. Applicants so qualifying shall be given obtain a National Board of Boiler and Pressure Vessel Inspectors' commission serial number, which from the National Board of Boiler and Pressure Vessel Inspectors. The serial number shall of the commission must be registered in the office of the code enforcement chief of the Division of Boiler Inspection inspector. Inspectors having National Board of Boiler and Pressure Vessel Inspectors' commissions obtained in other states shall be registered without another examination with the Code Enforcement Division of Boiler Inspection and furnish a photocopy of their current National Board of Boiler and Pressure Vessel Inspectors' commission.

5225.1350 PROPERTY DAMAGE OR PERSONAL INJURY REPORT.

Insurance inspectors shall make a written report to the Division of Boiler Inspection involving incidents to their insured boilers and pressure vessels covered under these rules that result in property damage or personal injury.

5225.2100 STAMPS ON BOILER AND PRESSURE VESSELS.

Every boiler or pressure vessel for use in this state shall must conform in every detail to the boiler and pressure vessel laws of the state and rules adopted by the Department of Labor and Industry, and when correctly constructed in accordance therewith shall the

boiler or pressure vessel must be stamped with the respective ASME American Society of Mechanical Engineers Code symbol, or and the National Board symbol (NB) or Minnesota Special (MINN. SPC) as the case may be. Stamping must be witnessed by an inspector holding a National Board commission. The code enforcement chief of the Division of Boiler Inspection inspector may, at the request of the manufacturer, designate any inspector possessing the qualifications required by part 5225.2000 to make the requested shop inspection, for which the manufacturer shall pay the statutory fee, plus cost of transportation and subsistence travel expenses as established by the Department of Administration.

5225.2200 ITEMS REQUIRING INSPECTION.

The authorized boiler inspector shall inspect all steam boilers, or generators, fired or unfired pressure vessels, and appurtenances connected thereto for their safe operation and condition, and all pressure piping connecting them to the appurtenances, and all piping up to the first stop valve, or the second valve when two are required. They shall must be properly prepared for inspection and the inspector given at least 48 hours' notice before the time set for of the inspection.

Any pressure piping to steam the boiler, generator, or pressure vessel appurtenances such as water column, blowoff valve, feedwater regulator, superheater, economizer, or stop valves, etc., which are to be shipped connected to the steam boiler, generator, or pressure vessel as a unit, shall must be hydrostatically tested with the steam boiler, generator, or pressure vessel; and witnessed by an authorized inspector, and if approved accepted so noted on the data sheet.

5225.2400 TITLE TRANSFERS TO USED BOILERS OR VESSELS.

Before the transfer of the title to a used boiler or pressure vessel and its future use in another location, the owner thereof shall cause the same it to be inspected by the state (or insurance company) boiler inspector, and in computing its the safe working pressure, the inspector shall use a safety factor of at least six on noncode boilers and pressure vessels having a butt strap joint and at least a factor of seven on a lap seam or welded joint. The maximum allowable working pressure must not exceed 100 pounds per square inch of any lap seam joint and if 36 inches in diameter or more, must not exceed 25 pounds per square inch.

5225.2500 LOW WATER DEVICES.

Subpart 1. [See repealer.]

Subp. 2. [See repealer.]

Subp. 3. Requirements. The following must be equipped with a low water cutout that will shut off the fuel supply in case of a low water condition:

A. each automatically fired steam boiler; and

B. each automatically fired hot water heating boiler or other hot liquid boiler plants consisting of two or more boilers connected to a common header with a total heat input exceeding 750,000 Btu per hour input.

Subp. 4. Flow sensing device required. The following must have a flow-sensing device installed in the outlet piping in lieu of the low water fuel cutoff required in subpart 3 to automatically cut off the fuel supply when the circulating flow is interrupted:

A. a coil type boiler plant exceeding 750,000 Btu; and

B. a watertube boiler plant with heat input greater than 750,000 Btu per hour requiring forced circulation to prevent overheating of the coils on tubes.

5225.2600 REPORTING REPAIRS.

Subpart 1. Prior notice of repair. The owner or person in charge of a steam boiler, generator, or pressure vessel shall notify the Code Enforcement Division of Boiler inspector of Inspection prior to each major repair or alteration made thereto, to the boiler and the inspector shall then division will compute the safe working pressure by virtue of said the repair or alteration. In the event the boiler is insured, the owner or person in charge thereof shall notify the insurer.

Subp. 2. Standard of repairs. The National Board of Boiler and Pressure Vessel Inspectors' repair (R) stamp or applicable American Society of Mechanical Engineers Code symbol stamp is required for welded repairs to any boiler or pressure vessel subject to inspection as specified in Minnesota Statutes, sections 183.375 to 183.62.

The applicable American Society of Mechanical Engineers Code symbol stamp is required for alterations to any boiler or pressure vessel. All work must be in compliance with the latest edition of National Board Inspection Code and the referencing sections of the American Society of Mechanical Engineers Code.

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Repairs or alterations must be acceptable to the authorized inspection agency responsible for the inservice inspection of the boiler or pressure vessel. Inspection and certification of repairs and alterations must be made by an inspector holding a National Board of Boiler and Pressure Vessel Inspectors' commission, employed by an authorized inspection agency. Authorized inspection agencies are:

A. insurance companies licensed to provide boiler and pressure vessel insurance in Minnesota whose inspectors hold a National Board of Boiler and Pressure Vessel Inspectors' commission; and

B. the Minnesota Department of Labor and Industry, Code Enforcement Division of Boiler Inspection.

It is the responsibility of the organization making the repair or alteration to provide for inspection, documentation, and certification of the work and to ensure acceptance of the work by the authorized inspection agency.

Completion of the National Board of Boiler and Pressure Vessel R-1 form is required for all repairs and all alterations. It is the responsibility of the repair organization to prepare the form and submit it to the authorized inspector for acceptance. Distribution of the form must be as detailed in the National Board inspection code with one copy of the completed form sent to the Minnesota Department of Labor, Code Enforcement Division of Boiler Inspection.

5225.2800 SEALING BOILERS OR PRESSURE VESSELS.

If an inspection of a boiler or pressure vessel shows it to be in an unsafe condition, the inspector shall seal it against further use until the repairs necessary to make it safe for use are made. The owner or user may appeal to the chief inspector of the Division of Boiler Inspection Code Enforcement Division, who shall immediately investigate and either confirm, modify, or rescind said order of repair. The owner or user may, upon written request, be granted a hearing before the commissioner, where he shall Office of Administrative Hearings pursuant to Minnesota Statutes, sections 14.57 to 14.69. The owner or user will have an opportunity to appear and show cause why he the owner or user should not comply with the decision of the chief inspector of the Division of Boiler Inspection Code Enforcement Division. After hearing, the commissioner shall confirm, modify, or rescind all orders issued, issue an order or may make such requirements as he deems are necessary for repairs to be made to correct the unsafe condition. The chief inspector of the Division of Boiler Inspection Code Enforcement Division may in his discretion allow the boiler or pressure vessel to remain in use pending disposition of the appeal.

5225.3100 INSURED COVERAGE REPORT.

Every insurance company insuring a boiler or pressure vessel shall must notify the code enforcement chief of the Division of Boiler Inspection inspector in writing immediately of such the coverage. It shall must also mail a duplicate of such the notification to the assured, who shall, until receipt of exemption certificate, post such the notice in a conspicuous place near the boiler or pressure vessel. The person, firm, or corporation operating the insured boiler or pressure vessel shall procure and post an exemption certificate within a period of 60 days from the date of coverage, and keep same it posted in a conspicuous place near the insured object boiler or pressure vessel. If such the certificate is not posted within said 60 days from date of coverage the boiler inspector shall make the usual and customary inspection of such the boiler or pressure vessel and charge the statutory fee therefor.

5225.3200 APPEALS.

Any person aggrieved by any action or decision of a boiler inspector may appeal therefrom to request a reconsideration by the chief inspector of the Division of Boiler Inspection by filing written notice of such appeal with that officer Code Enforcement Division, who, after notice and hearing, may affirm, modify, or rescind such action or decision. The parties affected by any action or decision of the chief of the Division of Boiler Inspection inspector may appeal therefrom to the Department of Labor and Industry request a hearing at the Office of Administrative Hearings under Minnesota Statutes, sections 14.57 to 1470.

5225.3400 STANDARDS FOR BOILERS.

Subpart 1. Blowdown. The blowdown from a boiler or boilers that enters may enter a sanitary sewer system or blowdown which is considered a hazard to human life or property shall must pass through some form of blowoff equipment that will reduce pressure and temperature as required hereinafter. The temperature of the water leaving the blowoff equipment shall must not exceed 150 180 degrees Fahrenheit. The pressure of the blowdown leaving any type of blowoff equipment shall not exceed nor five pounds per square inch gage. If this pressure is exceeded additional vent area shall be provided. If during the blowdown the water seal level cannot be maintained, the water outlet line shall be reduced one pipe size. The rules of This section are part does not intended to apply to boiler blowoff tanks which are connected to boilers that operate at 400 pounds per square inch or over.

Subp. 2. Blowoff tank. A boiler blowoff tank shall must be designed and correctly fabricated in accordance with the ASME Unfired American Society of Mechanical Engineers Pressure Vessel Code for at least 25 percent of the safe working pressure of the boilers to which it is connected, but in no case need a tank be constructed for a working pressure more than 100 pounds per square inch. The minimum thickness of the shell plate and heads shall be three eighths inch, and shall blowoff tank must be of a volume equal to at least twice the volume of water removed from the boiler when the normal water level is reduced not less than four inches.

Subp. 3. Water outlet. The water outlet connection ~~shall~~ must be connected to the tank so that the tank will remain half full of water after each blowdown, and this vertical leg ~~shall~~ must extend to within six inches of the bottom of the tank and the top of this water seal ~~shall~~ must also have a three ~~quarter-fourths~~ fourths inch opening to act as a syphon breaker.

Subp. 4. Size opening. The size opening of the blowoff line inlet, water outlet, and vent ~~shall~~ must have an area ratio of at least 1:1.5 to the nearest pipe size. Table 1 in part 5225.3500 gives ratio of openings.

Subp. 5. Inlet. The inlet ~~shall~~ must enter the shell at a tangent and ~~shall~~ must be above the surface of the water in the tank. A wearing plate of steel of the same thickness as the shell ~~shall~~ must be attached to the inside of the shell opposite the inlet opening.

Subp. 6. Vent pipe. The vent pipe ~~shall~~ must be connected to the uppermost part of the tank and carried without any intervening stop valve or other obstruction as direct as possible to the outside atmosphere. It ~~shall~~ must discharge at a point of safety not less than seven feet above adjacent areas or walkways.

Subp. 7. Access opening. The tank ~~shall~~ must have a suitable access opening, a manhole if ~~practical~~ possible; if not possible, then handholes, for inspection and cleaning of the interior. All pipe connections ~~shall~~ must be made as direct as possible and ~~shall~~ must be equipped, where ~~practical~~ possible, with sweep bends having a radius of at least four times the diameter of the pipe. Where conditions make the use of sweep bends prohibitive, long sweep fittings may be used. If couplings are welded in the openings they ~~shall~~ must be extra heavy.

Subp. 8. Drain. The tank ~~shall~~ must be fitted with a drain connection which is at least 2½ inch standard pipe size and with a cold water supply which is at least ~~one~~ three-fourths inch pipe size. The drain line ~~should~~ must contain fittings to facilitate cleaning.

Subp. 9. Clearance from floor or ground. The tank ~~shall~~ must be provided with supporting legs which shall give a distance of at least 12 inches from the bottom of the tank to the floor. Blowoff tanks placed under ground ~~shall~~ must be installed in a properly walled pit having space of not less than 18 inches between the tank and the wall.

Subp. 10. Pressure gage. The tank ~~shall~~ must be fitted with a pressure gage graduated from 0 to 30 pounds, the minor graduations indicating a pressure not greater than one pound. The pressure gage ~~shall~~ must be connected to a siphon, the opening of which ~~shall~~ must be at least one-fourth inch inside diameter.

Subp. 11. Water gage glass. The tank ~~shall~~ must be fitted with a water gage glass of at least one-half inch diameter. The lower connection to the glass ~~shall~~ must be made at a point about four inches below the water line and the upper connection about six inches above the water line.

Subp. 12. Thermometer well. The tank ~~shall~~ must be fitted with an opening for a thermometer well, located close to the water outlet connection and in contact with the water in the tank. If the outlet is not fitted with a water cooling device, the retained water ~~shall~~ must be reduced to at least room temperature before blowing down a boiler.

Subp. 13. Permissible types of tanks. Blowdown centrifugal separator, closed, and other types of blowoff tanks are permissible when approved by the chief of the Division of Boiler Inspection.

5225.3500 TABLE NO. 1 OF NATIONAL BOARD BLOWOFF EQUIPMENT.

Boiler Blowoff Inlet	Water Outlet	Vent
*¾	¾	2
1	1	2½
1¼	1¼	3
<u>1½</u>	<u>1½</u>	<u>4</u>
<u>2</u>	<u>2</u>	<u>5</u>
2½	2½	6

*To be used only with boilers of 100 square feet of heating surface or less.

5225.4000 BLOWOFF TANKS.

Suggested Sizes of blowoff tanks are given in the following table:

Up to three ~~HP pipe~~ high pressure pipes not to exceed 18 inches in diameter ~~has been~~ may be used, provided the volume of the

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water seal is at least equal to one gauge of water of the boiler to which it is connected and vapor space is at least 50 percent of the volume and boiler pressure is not over 100 pounds per square inch.

Boiler Rating	Tank Size
3 to 10 H.P.	24" × 36"
11 to 25 H.P.	24" × 48"
26 to 50 H.P.	30" × 36"
51 to 75 H.P.	30" × 48"
76 to 150 H.P.	36" × 54"
151 to 250 H.P.	36" × 60"
251 to 600 H.P.	42" × 66"
Over 600 H.P.	48" × 72"

5225.4100 SAFETY VALVES.

Each boiler ~~shall~~ must have at least one safety valve and if it ~~has~~ more than 500 square feet of water heating surface it ~~shall~~ must have two or more safety valves. Safety valves must meet American Society of Mechanical Engineers code requirements and be so stamped.

Every safety valve ~~shall~~ must be connected to the boiler independent of any other ~~steam~~ connections, and attached as close as possible to the boiler, without any unnecessary pipe or fitting and ~~shall~~ must stand in an upright position. No valve of any description ~~shall~~ may be placed between the required safety valve or valves and the boiler, nor on the discharge pipe between the safety valve and the atmosphere. All safety valves ~~shall~~ must discharge at a point of safety not less than seven feet from running boards, platforms, or adjacent areas. No reduction in pipe size is allowed in discharge piping from a safety valve to prevent restricting the flow of steam or water.

5225.4200 WATER GAGE.

When the boiler operating pressure exceeds 100 ~~psi~~ pounds per square inch, the water gage glass ~~shall~~ must be fitted with a gate or plug-valved drain to the ash pit or other safe discharge point.

The lowest visible part of the water gage glass ~~shall~~ must be at least two inches above the lowest permissible water level; ~~which level shall be not less than one inch above the fire surface.~~ If the lowest water gage shutoff valve is more than seven feet above the floor or platform from which it is operated, the operating mechanism ~~shall~~ must indicate by its position whether the valve is opened or closed.

5225.4300 WATER COLUMN SHUTOFFS.

When shutoffs are used in pipe connections between a boiler and water column or between a boiler and the shutoff valves required for the gage glass ~~they shall~~ valves must be either outside-screw-and-yoke or leverlifting type gate valves or stopcocks with levers permanently fastened ~~thereto~~ and marked in line with their passage, or ~~such~~ other through-flow construction ~~as to prevent stoppage by deposits of sediment; and to.~~ These valves must indicate by the position of the operating mechanism whether they are in open or closed position; and ~~such~~ the valves or cocks ~~shall~~ must be locked or sealed open. Where stopcocks are used they ~~shall~~ must be a type with the plug held in place by a guard or gland.

Apparatus which does not permit the escape of an appreciable amount of steam ~~therefrom~~, may be placed in the pipes connecting a water column or gage glass to a boiler.

The steam and water connections to a water column, including all pipe, fittings, valves, and drains, ~~shall~~ must be ~~such that they are~~ readily accessible for internal inspection and cleaning by providing a cross or fitting with a back outlet at each right-angle turn, or by using pipe bends or fittings which will permit the passage of a rotary cleaner. The water column ~~shall~~ must be fitted with at least a three-fourths inch pipe size cock or drain with a suitable connection to the ash-pit, or other safe point of waste.

5225.4400 STEAM GAGE.

Each steam gage ~~shall~~ must be connected to a siphon of at least one-fourth inch pipe size and be fitted with a cock provided with a tee or lever handle arranged to be parallel to the pipe in which it is located when the cock is open. If the pipe is longer than ten feet, a shutoff valve or cock arranged so that it can be locked or sealed open may be used near the boiler.

The dial of the steam gage ~~shall~~ must be graduated to approximately double the pressure at which the safety valve is set but in no case to less than 1½ times this pressure.

5225.4500 VALVES AND FITTINGS.

Valves and pipe fittings ~~shall~~ must conform to the American standards for the maximum allowable working pressure. Fusion welded joints are permitted if the welding procedure and operator are qualified.

All valves and fittings on all feedwater piping from the boiler up to and including the first stop valve and the check valve ~~shall~~ must

be equal at least to the requirements of ~~any~~ the standard accepted by the ~~ASME~~ American Society of Mechanical Engineers code for pressure 1.25 times the maximum allowable working pressure of the boiler.

All valves and fittings for feedwater piping between the required check valve and the globe or regulating valve, and including any bypass piping up to and including the shutoff valves in the bypass, ~~shall~~ must be equal at least to the saturated requirements of any standard accepted by the ~~ASME~~ American Society of Mechanical Engineers code ~~for a~~. The pressure rating must be equal to the expected operating pressure required to feed the boiler for a saturated steam temperature corresponding to the minimum set pressure of any safety valve on the boiler drum or the actual temperature of the water, whichever is greater.

Valves and fittings made of any material permitted by the ~~ASME~~ American Society of Mechanical Engineers code for pressure ratings of 125 pounds or more and marked as required by the code may be used for feed line and blowoff service up to 80 percent of the rated pressure.

5225.4600 STOP VALVES.

Each steam-discharge outlet, except safety-valve, reheater inlet and outlet, or superheater inlet connections, ~~shall~~ must be fitted with a stop valve located at an accessible point in the steam-delivery line and as near to the boiler nozzle as convenient and practicable. When ~~such~~ the outlets are over two inches pipe size, the valve or valves used on the connection ~~shall~~ must be the outside-screw-and-yoke rising-spindle type ~~so as~~ to indicate at a distance by the position of its spindle whether it is closed or open. A plug-cock-type valve may be used provided the plug is held in place by a guard or gland, and it is equipped to indicate at a distance whether it is closed or open and it is equipped with a slow-opening mechanism.

5225.4700 COMMON MAIN CONNECTION.

When two or more boilers are connected to a common steam main, the steam connection from each boiler having a manhole opening ~~shall~~ must be fitted with two stop valves having an ample free-blow drain between them. The stop valves ~~shall~~ must consist preferably of one automatic nonreturn valve, set next to the boiler and a second valve of the outside-screw-and-yoke type; or, two valves of the outside-screw-and-yoke type ~~shall~~ must be used.

5225.4800 BLOWOFF PIPELINE.

Each boiler ~~shall~~ must have a bottom blowoff pipe fitted with a valve or cock in direct connection with the lowest water space practicable.

All fittings between the boiler and valves ~~shall~~ must be of steel for pressure over 100 psi pounds per square inch. For pressures up to 200 psi pounds per square inch cast iron valves may be used if they meet the requirements of the American standard for 250 pounds; and if of steel ~~shall~~ must be equal to the requirements of the American standards as given in the ~~ASME~~ American Society of Mechanical Engineers code. For pressures over 200 psi pounds per square inch the valves or cocks ~~shall~~ must be of steel and at least equal to the ~~ASME~~ American Society of Mechanical Engineers code Standard.

5225.4900 BLOWOFF VALVES.

On all stationary boilers, when the allowable working pressure exceeds 100 psi pounds per square inch, each bottom blowoff pipe ~~shall~~ must have two slow-opening valves, or one slow-opening valve and a quick-opening valve or a cock complying with the ~~ASME~~ American Society of Mechanical Engineers code requirement.

The bottom blowoff pipes of every traction and/or portable boiler ~~shall~~ must have at least one slow-or-quick-opening blowoff valve or cock conforming to the ~~ASME~~ American Society of Mechanical Engineers code requirement.

Blowoff valves and cocks ~~shall~~ must be located in ~~some~~ a convenient and accessible place, using extension valve stems if necessary to secure safe operation.

5225.5000 FEED PIPING.

The feed-pipe ~~shall~~ must be provided with a check valve near the boiler and a valve or cock between the check valve and the boiler, and when two or more boilers are fed from a common source, there ~~shall~~ must be a globe or regulating valve on the branch to each boiler between the check valve and the source of supply. Wherever globe valves are used on feed piping, the inlet ~~shall~~ must be under the disk.

A combination stop-and-check valve in which there is only one seat and disk, and a valve stem is provided to close the valve when the stem is screwed down, ~~shall~~ must be considered only as a stop valve, and a check valve ~~shall~~ must be installed as provided in the first paragraph of this part.

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5225.5100 FEEDWATER SUPPLY.

A boiler having more than 500 square feet of water heating surface (50 BHP) ~~shall~~ must have at least two means of feeding, one of which ~~shall~~ must be a pump, inspirator, or injector. Where a source of feed is available at a sufficient pressure six percent higher than that at which the safety valve is set to ~~blow~~ relieve, this may be considered one of the means of feed. For boilers ~~other than those~~ fired with ~~spreader-type stokers or with gaseous, liquid, or pulverized fuels~~ solid fuel not in suspension, if pumps only are used, one ~~shall~~ must be steam driven.

When electrically-driven feed pumps are used and there is no other reliable independent source of electrical supply, there ~~shall~~ must be maintained ready for service steam-driven feed pumps or injectors (inspirators) of sufficient capacity to safeguard the boilers in case of failure of electric power.

5225.5200 ELECTRICALLY HEATED GENERATORS.

All appliances required for electric steam generators ~~shall~~ must be attached in accordance with the following:

A cable at least as large as one of the incoming power lines to the generator ~~shall~~ must be provided for grounding the generator shell. This cable ~~shall~~ must be permanently fastened on some part of the generator and ~~shall~~ must be grounded in an approved manner. A suitable screen or guard ~~shall~~ must be provided around high tension bushings and a sign posted warning of high voltage. This screen or guard ~~shall~~ must be so located so that it will be impossible for anyone working around the generator to accidentally come in contact with the high tension circuits. ~~When adjusting safety valves, the power circuit to the generator shall be open. The generator may be under steam pressure but the power line shall be open while the operator is making the necessary adjustments.~~

Each kilowatt of electrical energy consumed by an electric steam generator, operating at maximum rating, ~~shall~~ must be considered the equivalent of one square foot of heating surface of a fire tube boiler when determining the required amount of safety valve relieving capacity.

Ten kilowatts equals one boiler horsepower for the engineer license requirement.

5225.6000 SCOPE.

Parts 5225.6000 to 5225.7200 ~~shall~~ 5225.7450 must be followed by vessels navigating the lakes and rivers of Minnesota.

5225.6100 DEFINITIONS.

Subpart 1. ~~Approved life preserver.~~ An "approved life preserver" ~~shall be either a vest-like article with straps and buckles attached thereto that will fit around the body directly below the arms so as to keep the upper part of the person above water or a cushion with at least two straps attached thereto. Both of these shall be made of kapok or cork and shall be designed to keep a dead weight of 20 pounds afloat for at least 24 hours. The materials used must comply with the United States Coast Guard specifications. Personal flotation device. An "approved personal flotation device" must be a Coast Guard approved Type I device, designed for use on vessels carrying passengers for hire.~~

Subp. 2. Motor boat. "Motor boat" means any vessel navigating inland waters of the state, propelled by machinery, carrying passengers or cargo for hire and operated by a licensed pilot.

Subp. 3. Underway. A vessel is "underway" within the meaning of these rules when it is not at anchor, or made fast to the dock, shore, or ground.

Subp. 4. Visible. The word "visible" in these rules, when applied to lights, ~~shall mean~~ means visible on a dark night with a clear atmosphere.

5225.6200 LIGHTS.

~~The rules concerning lights shall be complied with in all weathers from sunset to sunrise, and during such time no other lights which may be mistaken for the prescribed lights shall be exhibited. If operated between sunset and sunrise, a vessel shall be equipped with a green light on the starboard side and a red light on the port side of the bow of the boat and shielded so they cannot be seen across the bow, and a white stern light visible from any angle within 360 degrees. Such boats shall have ready a lantern or flash light which shall be temporarily exhibited in sufficient time to avoid collision.~~

Subpart 1. Classification of boats. All vessels are classified for lighting requirements in the following manner:

- A. Class A, under 16 feet in length;
- B. Class 1, 16 feet to less than 26 feet;
- C. Class 2, 26 feet to less than 40 feet; and
- D. Class 3, 40 feet to 65 feet.

Subp. 2. When lights required. All vessels must display the correct lights for their class from sunset to sunrise when underway or at anchor.

Subp. 3. Class A and class 1. Inland rules light requirements for class A and class 1 are:

A. a 20-point combination red-green bow light;

B. a 32-point bright white light aft, which may be located off center line, to show all around the horizon, located above the red-green combination lights and visible at a distance of at least two miles; and

C. when at anchor, a 32-point white light, visible at a distance of at least one mile, all around the horizon.

Subp. 4. Class 2 and class 3. Inland rules light requirements for class 2 and class 3 are:

A. separate ten-point red and green side lights showing from dead ahead to two points abaft the beam and visible at a distance of at least one mile;

B. a 20-point white light as near the bow as possible showing ten points on each side and visible at a distance of at least two miles;

C. a 32-point bright white light aft to show all around the horizon, visible at a distance of at least two miles and located clearly higher than the 20-point white light forward; and

D. when at anchor, a 32-point white light, visible at a distance of at least one mile all around the horizon.

5225.6300 COURSE AND SPEED.

When two vessels are crossing, so as to ~~and the crossing may~~ involve risk of collision, the pilot of the vessel which has the other on its own starboard side shall ~~keep out of the way of the other~~ yield the right-of-way. When a machinery driven vessel and a sailing vessel or rowing boat are proceeding in such a direction as to ~~which may~~ involve risk of collision, the pilot of the power driven vessel shall ~~keep out of the way of the sailing vessel or rowing boat~~ yield the right-of-way. Where, by any of these rules, one of the two vessels is to ~~keep out of the~~ yield the right-of-way, the other vessel shall keep its course and speed. The pilot of every vessel which is directed by these rules to keep out of the way of another vessel yield the right-of-way shall, if possible, avoid crossing ahead of the other. The pilot of every vessel which is directed by these rules to keep out of the way of yield the right-of-way to another vessel shall, on approaching it the other vessel, if necessary, slacken its speed or reverse or stop.

Power vessels, when under way, ~~shall keep~~ must be kept a safe distance from rowing or other small boats.

5225.6400 NARROW CHANNELS.

In narrow channels the pilot of every vessel shall, when it is safe and practical, keep to that side of the fairway or mid-channel which lies on the starboard side of such the vessel. When two vessels are about to enter a narrow channel at the same time, the ascending vessel must stop below the channel until the descending vessel has passed through it. If two vessels unavoidably meet in a narrow channel, the vessel proceeding downbound with a following current has the right-of-way over an upbound vessel and will propose the manner and place of passage, and must initiate the maneuvering signals. The vessel proceeding upbound against the current must hold as necessary to permit safe passing.

Sailing vessels or power boats ~~shall keep out of the~~ must yield the right-of-way of to boats fishing with nets or lines. This rule ~~shall~~ does not give to any vessel or boat the right of obstructing a fairway or channel ~~used by vessels other than fishing vessels or boats.~~

5225.6500 EQUIPMENT.

When in use, every vessel subject to these rules shall carry oars or pole, an anchor, a fire extinguisher, and at least one approved life preserver for each passenger.

Subpart 1. Scope. When a vessel is in use or when passengers are embarked, the equipment listed in subparts 2 to 8 must be carried on board in operable condition.

Subp. 2. Oars or pole. When in use, a vessel must be equipped with oars or pole.

Subp. 3. Anchors. When in use, a vessel must be equipped with one or more anchors with adequate chain or rope attached to properly anchor the vessel.

Subp. 4. Fire extinguishers. A B I fire extinguisher must be located at steering station and at accommodations and galley. One B II fire extinguisher must be located at each machinery space.

One B I extinguisher equals 1¼ gallons foam or four pounds carbon dioxide or two pounds dry chemical.

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

One B II extinguisher equals 2½ gallons foam or 15 pounds carbon dioxide or ten pounds dry chemical.

All fire extinguishers must be inspected and serviced, within the preceding 12 months by a servicing company.

Each extinguisher must have a durable tag securely attached to show the maintenance or recharge date and the initials or signature of the person who performs this service.

Subp. 5. Bilge pumps. Boats under 65 feet carrying over 49 passengers must have one fixed power bilge pump rated at 25 gallons per minute and one portable hand bilge pump rated at five gallons per minute. Boats under 65 feet carrying less than 49 passengers must have one fixed power bilge pump rated at ten gallons per minute and one hand portable pump rated at five gallons per minute. Boats under 26 feet must have one hand portable pump rated at five gallons per minute.

Subp. 6. Personal flotation device. All boats must carry on board one Type I United States Coast Guard approved adult personal flotation device for each person permitted to be carried as listed on the current certificate. In addition, unless children are not carried, a boat must carry a number of personal flotation devices suitable for children equal to ten percent of the total number of persons carried.

All personal flotation devices must be stenciled with the vessel's name or number, be in good and serviceable condition and readily available for use, and fitted with reflective tape.

Subp. 7. Ring life buoy. All vessels must carry at least one United States Coast Guard approved Type IV ring life buoy with 30 feet of rope attached to it. Ring buoys must be 20 inches or more in outside diameter and if operating during nighttime hours, must be fitted with a water light and reflective tape.

Subp. 8. Whistle. Every vessel must carry a whistle or other sound producing mechanical appliance and one efficient bell.

5225.6600 APPROACHING DOCK.

All power motor boats must slow down at least proceed at slow speed when within 200 feet from dock or landing place. When about to land, the boat must head straight in, against the wind if possible, and, if practicable, avoid curving or circling into landing place.

5225.6700 REPORTS OF DAMAGE.

Pilots of motor boats shall report in writing to the office of the code enforcement chief of the Division of Boiler Inspection inspector any accident causing damage in excess of \$100, personal injury, or a fatality. They shall also promptly report any other pilot who does not properly discharge the duties of a pilot and any person who flashes a light into the face of a pilot or otherwise commits an act that endangers the safety of a motor boat any vessel.

5225.6800 TOWING ROW BOATS.

Every owner or lessee of a sailing or power vessel carrying passengers for hire which tows trailer rowboats shall see that have the rowboats towed are provided with oars, even when they are equipped with outboard motors.

5225.7000 CONSTRUCTING RULES.

In obeying and constructing these rules construing parts 5225.6000 to 5225.7450 due regard shall must be had given to all dangers of navigation and collision, and to any special circumstances which may render a departure from parts 5225.6000 to 5225.7200 5225.7450 necessary in order to avoid immediate danger.

5225.7250 PASSENGER CAPACITY.

The passenger carrying capacity of vessels subject to parts 5225.6000 to 5225.7450 is determined by one of the following rules:

A. length of rail criteria, one passenger for each 30 inches of rail space available at sides and transom, for instance: 25 feet long equals 600 inches plus (5 feet 6 inches transom equals 66 inches) for a total of 666 inches divided by 30 inches equals 22 passengers;

B. deck area criteria, one passenger per ten square feet of usable deck space; and

C. fixed seating criteria, one passenger per each 18 linear inches of fixed seating.

5225.7300 CREW REQUIREMENTS.

All vessels must carry a licensed pilot and additional crew members needed for safe operation as determined by the inspector based on gross weight, route, duration of trip, vessel configuration, and handling characteristics and noted on the annual boat inspection slip.

5225.7350 VENTILATION OF COMPARTMENTS.

Compartments of boats containing gasoline tanks or machinery must have natural supply ventilation and mechanical exhaust. The exhaust blower blades must be nonsparking with reference to their housing. The housing must be mounted as high above the bilge as practicable. Suction ducts must draw in from the lower areas of the bilge. Exhaust blower switches must be located outside the space

ventilated and must be interlocked with the starting and ignition switch so that the blowers are operating before the engine starter motor circuit and engine ignition are energized.

A red warning sign at the ignition switch must state that the blowers must be operated prior to starting the engines for a sufficient time to ensure at least one complete air change, or for five minutes, whichever is longer.

5225.7400 MANEUVERING AND WARNING SIGNALS.

When machinery driven vessels are in sight of one another and meeting or crossing at a distance within half a mile of each other, the pilot of each vessel underway, when maneuvering as authorized or required by the rules:

A. Shall indicate that maneuver by the following signals on the whistle: one short blast to mean "I intend to leave you on my port side"; two short blasts to mean "I intend to leave you on my starboard side"; and three short blasts to mean "I am operating astern propulsion."

B. Upon hearing the one or two blast signal the other boat shall, if in agreement, sound the same whistle signal and take the steps necessary to effect a safe passing. If, however, from any cause, the pilot of the vessel doubts the safety of the proposed maneuver, the pilot shall sound the danger signal and each vessel shall take the appropriate precautionary action until a safe passing agreement is made.

C. When in sight of one another, the pilot of a vessel intending to overtake another shall indicate intention by the following signals on the whistle: one short blast to mean "I intend to overtake you on your starboard side"; two short blasts to mean "I intend to overtake you on your port side." The pilot of the vessel about to be overtaken shall, if in agreement, sound a similar sound signal. If in doubt, the pilot of the vessel shall sound the danger signal.

D. When vessels in sight of one another are approaching each other and from any cause either pilot fails to understand the intentions or actions of the other, or is in doubt whether sufficient action is being taken by the other to avoid collision, the pilot in doubt shall immediately indicate the doubt by giving at least five short and rapid blasts on the whistle.

E. When a vessel is leaving a dock or berth, the pilot of the vessel shall sound one prolonged blast.

F. The term "short blast" means a blast of from one- to two-second duration.

G. The term "prolonged blast" means a blast of from four- to six-seconds duration.

5225.7450 SOUND SIGNALS IN RESTRICTED VISIBILITY.

Whether by day or night, in or near an area of restricted visibility, the signals prescribed in this part must be used as follows:

A. The pilot of a vessel making way through the water shall sound at intervals of not more than two minutes one prolonged blast as defined in part 5225.7400.

B. The pilot of a vessel underway but stopped shall sound at intervals of not more than two minutes two prolonged blasts.

C. The pilot of a vessel at anchor shall at intervals of not more than one minute ring the bell rapidly for about five seconds.

REPEALER. Minnesota Rules, parts 5225.0400; 5225.0800, subpart 4; 5225.1300; 5225.1400; 5225.2300; 5225.2500, subparts 1 and 2; 5225.2700; 5225.2900; 5225.3000; 5225.3300; 5225.6900; 5225.7100; and 5225.7200 are repealed.

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

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *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 strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after 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 emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Economic Security

Adopted Rules Governing Targeted Jobs Tax Credit Program

The rules proposed and published at *State Register*, Volume 9, Number 11, pages 546-547, September 10, 1984 (9 S.R. 546) are adopted as proposed.

Department of Revenue Property Equalization Division

Extension of Proposed Emergency Rules Relating to Railroads

Notice of Intent to Extend Emergency Rules

Notice is hereby given that the State Department of Revenue, Property Equalization Division, proposes to extend Minnesota Emergency Rules 8105.0100 to 8105.9900 entitled "Ad Valorem Tax: Valuation and Assessment of Railroads." This extension is made pursuant to the provision of Minnesota Statutes section 14.35 which states that, "The Emergency Rules may be continued in effect for an additional period of up to 180 days if the agency gives notice of continuation by publishing notice in the *State Register* and mailing the same notice to all persons registered with the agency to receive notice of any rulemaking proceedings."

This notice of intent to extend Emergency Rules will be mailed to all interested parties registered with the Department of Revenue and a certified copy of the mailing list together with an affidavit of mailing will be submitted to the Attorney General. Additionally the notice of intent to extend this Emergency Rule is being published in the *State Register*, thus fulfilling the requirements of the Statute.

Acting under authority given to him by the Minnesota Legislature in laws of 1984, Chapter 502, Article 9, Section 2, the Commissioner of Revenue adopted this Emergency Rule governing the valuation and assessment of railroads on August 1, 1984. The adoption of this rule followed the procedures set forth in Minnesota Statutes, section 14.29 to 14.36. These rules were originally published at *State Register* July 9, 1984 (9 SR 96).

Additional copies of this notice and Rule are available and may be obtained by contacting Wayne Gerwing.

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St. Paul, Minnesota 55164
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George W. Winter
for
Arthur C. Roemer
Commissioner of Revenue

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.

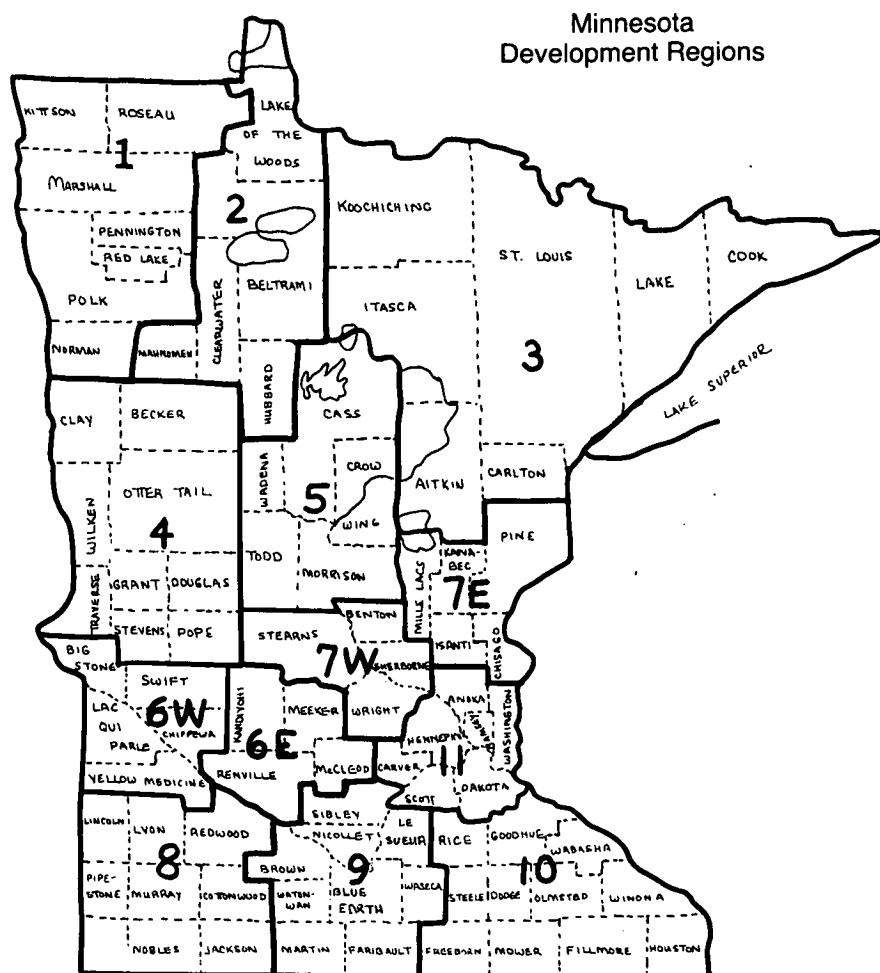
The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Energy and Economic Development

Current and Projected Residential Energy Costs, by Region and State

In fulfillment of Minnesota Statutes, 116J.27, Subdivision 1, the Commissioner of Energy, Department of Energy and Economic Development, hereby certifies the following current and projected average residential energy prices. Sample surveys of energy utilities and distributors were used to estimate regional average prices for 1983-84 (Table 1). Sampling errors of these surveys are given in Table 1A. Ten year forecasts of residential energy prices based on state average prices for the four heating fuels are given in Table 2. Table 3 gives ten year projections of residential electric prices, including space heating and non-space heating components, based on regional averages for the 13 development regions of the state.

These prices are to be used with discretion. All numbers are regional or statewide averages, and, therefore, do not take into account differences in tariff structures among individual utilities and distributors, nor advantages that some purchasers obtain through quantity discounts. If the user finds these current levels of prices to be higher or lower than actual unit energy prices, as documented by their most recent energy bill, the forecasts can be adjusted by applying the changes in prices between years provided in Tables 2 and 3 to the appropriate base for that locality.



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Table 1. Average Residential Energy Prices, By Region and State,
Heating Season 1983-1984

Region	Natural Gas ^a \$/1000 cu.ft.		Electricity ^a ¢/kwh		Fuel Oil ^b \$/gallon	Propane ^b \$/gallon
	NSH	SH	NSH	SH		
1	5.78	5.88	5.48	4.29	1.03	.76
2	5.42	5.47	6.51	4.97	1.07	.77
3	5.42	5.59	6.22	5.73	1.10	.82
4	5.70	5.74	6.01	5.15	1.05	.78
5	5.42	5.73	5.91	5.68	1.05	.83
6E	5.56	5.57	6.01	4.97	1.03	.79
6W	5.66	5.70	6.75	6.10	1.01	.74
7E	5.62	5.62	6.79	6.46	1.05	.87
7W	5.84	5.91	5.83	5.14	1.04	.82
8	5.50	5.56	4.41	3.73	1.02	.70
9	5.67	5.70	5.96	5.23	.99	.71
10	5.72	5.63	6.14	5.15	1.02	.74
11	5.67	5.83	5.74	5.02	1.09	.86
State	5.65	5.76	5.85	5.12	1.05	.81

SH = Space Heating

NSH = Non-Space heating

a. Prices calculated from rate schedules submitted by utilities to the Regional Energy Information System (REIS), Department of Energy and Economic Development. Where declining block rates are in effect, space heating requirements bias prices towards the lowest blocks of residential rate schedules. Price differences between regions are caused in part by some utilities having instituted flat rate schedules for space heating as well as non-space heating consumption, and others using inverted block rate schedules. The prices reported are weighted averages of average summer and average winter prices with PGA's (Purchase Gas Adjustments) and PCA's (Power COST Adjustments) added to natural gas and electric prices, respectively.

b. Prices from the Department of Energy and Economic Development Residential Fuel Price Surveys, heating season 1983-84.

Table 1A. Standard Errors of Sample Prices, Residential Fuel Price Survey,
Heating Season 1983-84

Region	Natural Gas \$/1000 cu.ft.		Electricity ¢/kwh		Fuel Oil \$/gallon	Propane \$/gallon
	NSH	SH	NSH	SH		
1	.216	.127	.293	.149	.007	.006
2	.007	.159	.256	.093	.010	.008
3	.027	.042	.416	.484	.005	.008
4	.031	.018	.226	.256	.011	.017
5	.004	.035	.401	.438	.010	.014
6E	.120	.067	.290	.358	.009	.012
6W	.076	.066	.338	.339	.007	.012
7E	.121	.118	.219	.296	.015	.017
7W	.124	.113	.409	.485	.014	.011
8	.017	.018	.414	.474	.013	.010
9	.079	.009	.302	.301	.009	.017
10	.085	.100	.278	.261	.010	.012
11	.081	.063	.301	.417	.021	.011
State	.033	.026	.153	.209	.004	.004
# of Samples	106		130		130	130

Table 2. Projected State Average Residential Prices for Fuel Oil, Propane, Natural Gas, Electricity, Including Inflation, Heating Season 1983-84

	State Average Prices in Current Dollars										
	Actual 1983- 1984	1984- 1985	1985- 1986	1986- 1987	1987- 1988	Projections					
						1988- 1989	1989- 1990	1990- 1991	1991- 1992	1992- 1993	1993- 1994
# Fuel Oil ^a											
\$/gallon	1.05	1.06	1.08	1.14	1.22	1.31	1.42	1.54	1.67	1.81	1.96
Propane ^b											
\$/gallon	.81	.85	.86	.90	.96	1.04	1.13	1.23	1.34	1.46	1.59
Natural Gas ^c											
\$/1000 Cu. Ft.											
-Non-Spaceheating	5.65	5.77	5.92	6.16	6.53	7.00	7.56	8.15	8.80	9.51	10.25
-Spaceheating	5.76	5.88	6.03	6.27	6.64	7.11	7.67	8.27	8.93	9.65	10.40
Electric ¢/kwh ^d											
-Non-Spaceheating	5.85	6.01	6.23	6.50	6.77	7.02	7.29	7.58	7.91	8.26	8.62
-Spaceheating	5.12	5.26	5.45	5.68	5.92	6.14	6.38	6.63	6.92	7.22	7.54
Inflation-GNP Implicit Price Deflator ^e (Annual Rates)	4.1	4.4	5.3	5.6	5.7	5.8	6.0	6.1	6.2	6.2	6.2

a. Assumes stable real oil prices through 1987 with real price growth of 1.0% in 1988 and 2.8% beginning in 1989.

b. Historical relationships between crude oil and LPG in terms of price per million BTU content are continued into the future.

c. Wellhead price deregulation in 1985 is expected to place natural gas in direct competition with #6 residual fuel oil in the industrial market. This will lead to wellhead prices consistent with any crude oil price movements.

d. Electric prices growing at less than the inflation rate due to decreasing investment in additional capacity by the utilities.

e. Data Resources, Inc., *Long Term Review*, Summer 1984 Lexington, Trondlong 0684, determined for the heating season by taking the average between two calendar years.

Table 3. Projected Residential Electricity Prices by Region, Including Inflation, 1983-1984

Type of Heating	Projections ¢/kwh										
	Actual 1983- 1984	1984- 1985	1985- 1986	1986- 1987	1987- 1988	1988- 1989	1989- 1990	1990- 1991	1991- 1992	1992- 1993	1993- 1994
Non-Space	5.48	5.63	5.84	6.09	6.34	6.57	6.82	7.09	7.40	7.72	8.06
Space	4.29	4.41	4.57	4.77	4.97	5.15	5.35	5.56	5.80	6.05	6.32
Non-Space	6.51	6.69	6.94	7.24	7.54	7.82	8.12	8.44	8.80	9.18	9.59
Space	4.97	5.11	5.30	5.53	5.76	5.97	6.20	6.44	6.72	7.01	7.32
Non-Space	6.22	6.39	6.62	6.90	7.18	7.44	7.72	8.02	8.36	8.73	9.12
Space	5.73	5.89	6.11	6.37	6.63	6.87	7.13	7.41	7.73	8.07	8.43
Non-Space	6.01	6.18	6.41	6.69	6.97	7.23	7.51	7.81	8.15	8.51	8.89
Space	5.15	5.29	5.48	5.72	5.96	6.18	6.42	6.67	6.96	7.26	7.58
Non-Space	5.91	6.08	6.30	6.57	6.84	7.09	7.36	7.65	7.98	8.33	8.70
Space	5.68	5.84	6.05	6.31	6.57	6.81	7.07	7.35	7.67	8.00	8.35
Non-Space	6.01	6.18	6.41	6.69	6.97	7.23	7.51	7.81	8.15	8.51	8.89
Space	4.97	5.11	5.30	5.53	5.76	5.97	6.20	6.44	6.72	7.01	7.32
Non-Space	6.75	6.94	7.20	7.51	7.82	8.11	8.42	8.75	9.13	9.53	9.95
Space	6.10	6.27	6.50	6.78	7.06	7.32	7.60	7.90	8.24	8.60	8.98
Non-Space	6.79	6.98	7.24	7.55	7.86	8.15	8.46	8.80	9.18	9.58	10.00
Space	6.46	6.64	6.88	7.18	7.48	7.76	8.06	8.38	8.74	9.12	9.52

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Type of Heating	Actual		Projections ¢/kwh								
	1983-1984	1984-1985	1985-1986	1986-1987	1987-1988	1988-1989	1989-1990	1990-1991	1991-1992	1992-1993	1993-1994
Non-Space	5.83	5.99	6.21	6.48	6.75	7.00	7.27	7.56	7.88	8.22	8.58
Space	5.14	5.28	5.47	5.71	5.95	6.17	6.41	6.66	6.95	7.25	7.57
Non-Space	4.41	4.53	4.70	4.90	5.10	5.29	5.49	5.71	5.96	6.22	6.50
Space	3.73	3.83	3.97	4.14	4.31	4.47	4.64	4.82	5.03	5.25	5.48
Non-Space	5.96	6.13	6.36	6.63	6.90	7.15	7.42	7.71	8.04	8.39	8.76
Space	5.23	5.38	5.58	5.82	6.06	6.28	6.52	6.78	7.07	7.38	7.71
Non-Space	6.14	6.31	6.54	6.82	7.10	7.36	7.64	7.94	8.28	8.64	9.02
Space	5.15	5.29	5.48	5.72	5.96	6.18	6.42	6.67	6.96	7.26	7.58
Non-Space	5.74	5.90	6.12	6.38	6.64	6.88	7.14	7.42	7.74	8.08	8.44
Space	5.02	5.16	5.35	5.58	5.81	6.02	6.25	6.50	6.78	7.08	7.39

Department of Energy and Economic Development Community Development Division

Comments Sought on the Proposed Final Statement for the 1985 Small Cities Community Development Block Grant Program and on Proposed Amendments to the Final Statements for the 1983 and 1984 Small Cities CDBG Programs

Notice is hereby given that the Minnesota Department of Energy and Economic Development, Community Development Division, is seeking comments or opinions from sources outside the agency in preparing to submit the Final Statement for the 1985 Small Cities Community Development Block Grant (CDBG) Program and in preparing to submit amendments to the Final Statements for the 1983 and 1984 Small Cities CDBG Programs. The 1985 Final Statements will be submitted to the U.S. Department of Housing and Urban Development by February 22, 1985.

The 1985 Final Statement will consist of the Administrative Rules Governing the Community Development Block Grant Program, which are found at 10 MCAR § 1.500-1.565 and were published as adopted in the *State Register* on September 17, 1984 (9 S.R. 604-611); a description of the use of funds in the 1983 grant program; an assessment of the use of funds in the 1983 grant program in relation to the community development objectives in 10 MCAR § 1.500 B. and to the requirements of section 104(G)(3) of the U.S. Housing and Community Development Act, as amended through 1981 (P.L. 97-35); a description of the use of funds in the 1984 grant program; and an assessment of the relationship of the use of funds in the 1984 grant program to the community development objectives in 10 MCAR § 1.500 B. and § 1.546 B. and to the requirements of section 104(G)(3) of the U.S. Housing and Community Development Act of 1974, as amended by the U.S. Housing and Urban Rural Recovery Act of 1983 (P.L. 98-181).

The amendments to the 1983 and 1984 Final Statements will address the proposed use of funds returned to the agency from 1983 and 1984 grants.

The Minnesota Department of Energy and Economic Development, Community Development Division, requests comments or opinions concerning the assessments of the 1983 and 1984 grant programs and comments or opinions concerning the proposed use of grant funds returned to this agency. Interested or affected persons, groups, or units of general purpose local government may submit statements or comment orally or in writing. Written statements should be addressed to:

Michael J. McMahon, Director
Fiscal Operations, Community Development
Minnesota Department of Energy and Economic Development
9th Floor, American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-3133 or in person at the above address.

All statements and comments shall be accepted until 4:30 p.m., February 15, 1985. Statements and comments will be included as part of the 1985 Final Statements or as part of the amendments to the 1983 and 1984 Final Statements, as appropriate, submitted to the U.S. Department of Housing and Urban Development.

Description of the Use of Funds in the 1983 Small Cities Community Development Block Grant Program

During the 1983 grant program \$21,845,180 in federal funds were available for grants to eligible applicants for the Small Cities Development Program. Under the administrative rules for the 1983 program, 55 percent of the funds were available for comprehensive grants and 45 percent were available for single-purpose grants. Within the allocation for single-purpose grants, 20 percent of the funds were reserved for each of the single-purpose types of projects (housing, public facilities, and economic development), with the remaining 40 percent awarded on a competitive basis among all single-purpose types of applications. Thus, based on the funds available for grants, \$12,014,849 (55 percent) were reserved for comprehensive grants and \$9,830,331 (45 percent) were reserved for single-purpose grants. A reserve of \$1,966,066 was set aside for each of the three types of single-purpose grants.

Grant applications were accepted on February 1, 1983. Under the competitive review and ranking of applications, 45 grant awards were made on April 28, 1983. Of these awards, 24 applicants received comprehensive grants, for a total of \$11,751,270 (54 percent of the total allocation). A total of 21 single-purpose grants were awarded \$10,093,910 (46 percent). Within the single-purpose category, nine housing grants (\$4,437,395), seven public facilities grants (\$3,450,629) and five economic development grants (\$2,205,886) were awarded. Since the initial awards were made, one of the economic development grants revised its program and returned \$107,450 to this agency. These funds were reprogrammed by increasing the budget of another revised economic development grant by \$20,000 and awarding the remaining \$87,450 to the additional economic development applicants. So, the \$2,205,886 for economic development funded seven grants.

The Department of Energy and Economic Development, Community Development Division, concludes that funds were awarded in accordance with the rules for the 1983 grant program. Comprehensive grants were awarded slightly less than the target allocation because the budget required for the next highest ranking application exceeded the funds available for comprehensive grants.

Assessment of the Relationship of the Use of 1983 Funds to State and Federal Objectives

For the 1983 grant program, the Minnesota Department of Energy and Economic Development, Community Development Division, adopted the federal objectives of the Housing and Community Development Act of 1974, as amended, as the objectives for Minnesota's program. 10 MCAR § 1.500. B states, "The primary objective of this program is to develop viable urban communities by providing decent housing and a suitable living environment and by expanding economic opportunities, principally for persons of low and moderate income. Activities funded under this program shall not benefit moderate income persons to the exclusion of low income persons. All funded activities must be designed to:

1. Benefit low and moderate income persons;
2. Prevent or eliminate slums or blight; or
3. Alleviate urgent community development needs caused by existing conditions which pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet those needs."

Under the federal regulations and the Housing and Community Development Act of 1974, as amended, which govern the 1983 program, up to 20 percent of the total block grant awarded to the State of Minnesota may be used for planning and administration activities. These activities include funds retained by the Minnesota Department of Energy and Economic Development, Community Development Division, for administration of the grant program and funds awarded to units of general local government for administration of their grants. All other funds were awarded to units of general local government for project-specific activities.

The assessment of the relationship of the use of 1983 funds to state and national objectives is presented in two parts. First, the total of state and local planning and administration funds is compared to the limit of 20 percent. Second, funds awarded for project-specific activities are compared to the three national objectives listed above. If a majority of funds were awarded to benefit low and moderate income persons, the 1983 grant program will have met the test of principally benefitting persons of low and moderate income.

For the 1983 grant program, the Minnesota Department of Energy and Economic Development, Community Development Division, and 1983 grant recipients budgeted \$2,413,907 for planning and administration activities. These funds amount to 10.8 percent of the \$22,291,000 block grant, well under the 20.0 percent limit.

Under the grants awarded in the 1983 program, \$19,877,093 were budgeted for project-specific activities. Of these funds, \$17,121,907 (86.1 percent) were awarded for activities designed to benefit low and moderate income persons; \$5,324,492 (26.8 percent) for activities designed to prevent or eliminate slums and blight; and \$2,889,951 (14.5 percent) for activities designed to alleviate urgent community development needs. These activities total more than the \$22,291,000 block grant (or over 100 percent of the funds) because some activities are designed to address more than one national objective.

OFFICIAL NOTICES

Based upon this analysis of the 1983 grant awards, the Minnesota Department of Energy and Economic Development, Community Development Division, concludes that the 1983 grant program fully meets the state and national objectives. In particular, the activities funded by the 1983 grants are principally for persons of low and moderate income (\$17,121,907 were awarded, whereas \$11,145,500 was required). The final analysis of the 1983 grant program may show some variance with the above figures when actual expenditures are compared to state and national objectives; but such variances, if any, will be minor and will require approval by the Community Development Division. To date, only one 1983 grant has been approved for closeout. Its original budget included \$9,000 for planning and administration and \$484,226 for activities benefitting low and moderate income persons. Its final expenditure shows \$7,342 for planning and administration and \$485,884 for activities benefitting low and moderate income persons.

Description of the Use of Funds in the 1984 Small Cities Community Development Block Grant Program

The Housing and Urban Rural Recovery Act of 1983 (P.L. 98-181) amended the Housing and Community Development Act of 1974, as amended, (P.L. 97-35) by defining "principally for persons of low and moderate income" to mean that at least 51 percent of the funds would be awarded and expended for activities designed to meet this national objective within a period of up to three years as selected by the state. The State of Minnesota decided to apply this to the 1984 grant program, so that at least 51 percent of the 1984 block grant would fund activities designed to benefit low and moderate income persons. Furthermore, the State of Minnesota declared its own objective of 70 percent of the funds benefitting low and moderate income persons.

The administrative rules for the 1984 grant program changed the distribution of funds from that of 1983. Under the new rules, the grant program was divided into a competitive application program and an economic development application program. The competitive program had an application deadline of February 1, 1984, for applications for single purpose (housing or public facilities) and comprehensive grants. Economic development applications were accepted on a year-round basis and evaluated according to the rules at 10 MCAR § 1.500-1.565.

During the 1984 grant program, \$21,155,220 in federal funds were made available for grants to eligible applicants for the Small Cities Development Program. Under the administrative rules for the 1984 program, 55 percent of the funds were available for comprehensive grants, 30 percent for single purpose grants, and 15 percent for economic development grants. Within the single purpose allocation, 30 percent of the funds were reserved for each of the two types of projects (housing and public facilities) with the remaining 40 percent awarded on a competitive basis among both types of single purpose applications. Based upon the funds available for grants, \$11,635,371 (55 percent) were reserved for comprehensive grants, \$6,346,566 (30 percent) were reserved for single purpose grants, and \$3,173,283 (15 percent) were reserved for economic development grants. Within the single purpose category, a reserve of \$1,903,970 was set aside for each of housing and public facilities grants.

Grant applications were accepted on February 1, 1984, for the competitive grant program. Under the competitive review and ranking of applications, 35 grant awards were made on May 1, 1984. Of these awards, 21 applicants received comprehensive grants for a total of \$11,635,371. A total of 14 single purpose grants were awarded \$6,444,076.36. Within the single purpose category, there were five housing (\$2,733,500) and nine public facilities (\$3,710,576.36) grants awarded.

Applications for economic development grants were accepted from December 25, 1983. Each application was evaluated against a series of threshold criteria and a scoring system. Those applications that scored at least 400 points on a 600 point system and met all the threshold criteria were referred to the Commissioner for funding. Fourteen economic development grants were awarded \$3,158,520 in the 1984 grant cycle.

In summary, during the 1984 grant program, a total of 49 grants were made for a total of \$21,237,967.36. This total exceeded the amount originally allocated for grants by \$82,747.36. The original set aside for administration was reduced accordingly to fund the grant awards. Of the funds awarded, 55 percent were awarded to comprehensive grants, 30 percent were awarded to single purpose grants, and 15 percent were awarded to economic development grants. The Department of Energy and Economic Development, Community Development Division, concludes that funds were awarded in accordance with the rules for the 1984 grant program.

Assessment of the Relationship of the Use of 1984 Funds to State and Federal Objectives

As in 1983, for the 1984 grant program the Minnesota Department of Energy and Economic Development, Community Development Division, adopted the national objectives for the community Development Block Grant program. Under these objectives, all funded activities must be designed to:

1. Benefit low and moderate income persons;
2. Prevent or eliminate slums or blight; or
3. Alleviate urgent community development needs caused by existing conditions which pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet those needs.

The U.S. Housing and Urban Rural Recovery Act of 1983 amended the federal legislation so that in order to meet the test of principally benefit persons of low and moderate income not less than 51 percent of the funds must be spent on activities designed to

benefit low and moderate income persons. With a total block grant of \$21,689,000 in 1984, the State of Minnesota is required to spend not less than \$11,061,390 on activities designed to meet the first national objective.

As with the 1983 assessment, this assessment distinguishes between planning and administration activities and project-specific activities. The funds budgeted for planning and administration include both the funds retained by the Minnesota Department of Energy and Economic Development for administration of the program and funds awarded to units of general local government for planning and administration of their grants. No more than 20 percent of the block grant can be used for planning and administration.

For the 1984 grant program, the Minnesota Department of Energy and Economic Development, community Development Division, and the 1984 grant recipients budgeted \$1,498,585 for planning and administration. These funds amount to 6.9 percent of the \$21,689,000 block grant, well below the 20.0 percent limit.

Under the grants awarded in the 1984 program, \$20,190,415 were budgeted for project-specific activities. Of these funds, \$15,408,883 (76.3 percent) were awarded for activities designed to benefit persons of low and moderate income, \$4,536,549 (22.5 percent) were awarded for activities designed to prevent or eliminate slums or blight, and \$1,839,334 (9.1 percent) were awarded for activities designed to alleviate urgent community development needs. With respect to the total block grant, 71.0 percent of the funds were awarded for activities designed to benefit persons of low and moderate income. Thus, the 1984 grant awards exceeded the national goal of at least 51 percent benefit and the state objective of 70 percent benefit to persons of low and moderate income.

1. Creation or retention of permanent private sector jobs, with a minimum threshold of one job created or retained for each \$20,000 of grant funds;

2. Leverage of private investment, with a minimum threshold of one dollar private funds for each grant dollar requested; and

3. Increase the local tax base, with a minimum threshold of an estimated 50 percent increase in the value of the parcel involved.

Because every grant had to meet at least two of these objectives, the economic development grants as a whole have met the state objectives for the program. All the economic development grants meet the job creation or retention threshold. Eleven of the fourteen grants met the private leverage threshold as their second objective; one grant met the tax base increase threshold as its second objective; and two grants met all three thresholds.

Based upon this analysis of the 1984 grant program, the Minnesota Department of Energy and Economic Development, Community Development Division, conclude that the 1984 grant program fully meets the state and national objectives for the Small Cities Community Development Block Grant Program.

Amendment to the 1983 Final Statement

If grant funds are returned to the Minnesota Department of Energy and Economic Development, Community Development Division, following the closeout of grants awarded in the 1983 Small Cities Development Program or as a result of the resolution of audits of those grants, the funds will be retained by the Department and made available for grants during the next competitive application cycle for the Small Cities Development Program.

Amendment to the 1984 Final Statement

If grant funds are returned to the Minnesota Department of Energy and Economic Development, Community Development Division, following the closeout of competitive grants awarded in the 1984 competitive application process or as a result of the resolution or audits of those grants, the funds will be retained by the Department and made available for grants during the next competitive application cycle for the Small Cities Development Program.

If grant funds are returned to the Minnesota Department of Energy and Economic Development, Community Development Division, following the closeout of 1984 economic development grants or as a result of the resolution of audits of those grants, the funds will be made available by the Department for economic development grants.

Department of Finance

Notice of Maximum Interest Rate for Municipal Obligations, February, 1985

Pursuant to Minnesota Statutes, Section 475.55, Subdivision 4, Commissioner of Finance, Gordon M. Donhowe, announced today that the maximum interest rate for municipal obligations in the month of February will be eleven (11) percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to twelve (12) percent per annum.

FOR FURTHER INFORMATION CONTACT

Peter Sausen, Director
Debt Management
State of Minnesota
Department of Finance
(612) 296-8372

Department of Human Services Board on Aging

Notice of Intent to Designate An Area Agency on Aging

In accordance with 45 CFR 1321.81 the Minnesota Board on Aging is required to designate an area agency on aging in each planning and service area in which the MBA decides to allocate funds. Beginning January 1, 1986 the counties of Stearns, Benton, Sherburne, and Wright comprising Region 7W will become a separate Planning and Service Area for the purposes of the Older Americans Act. Therefore, the Minnesota Board on Aging intends to designate an Area Agency on Aging to serve this area. Region 7E will remain a Planning and Service Area served by the East Central Regional Development Commission as the Area Agency on Aging.

Area Agency on Aging Designation Guidelines

PROCEDURES FOR DESIGNATION

To apply for designation as a Area Agency on Aging for a particular planning and service area, an interested agency must file a letter of intent with the MBA. Upon MBA determination that the interested agency is an eligible applicant, appropriate application instructions and forms will be forwarded. Before designating an area agency, the State agency must—

1. Consider the views of the unit(s) of general purpose local government within the planning and service area; and
2. Conduct an on-site assessment to determine whether the agency which is being considered for designation has the capacity to perform all of the functions of an area agency as specified.

FUNCTIONS OF AREA AGENCIES ON AGING

An area agency must—

- a. Develop and administer the area plan for a comprehensive and coordinated system of services; and
- b. Service as the advocate and focal point for older persons in the planning and service area.

DEFINITION OF AREA PLAN

An area plan is the document submitted by an area agency to the State agency in order to receive subgrants or contracts from the State agency. The area plan contains provisions required by the Older Americans Act and commitments that the area agency will administer all activities in accordance with all Federal requirements. An area agency may use its subgrants or contracts only for activities under its approved plan.

ELIGIBILITY CRITERIA

The State agency may designate as an area agency any one of the following types of agencies that has the authority and the capacity to perform the functions of an area agency:

- a. An established office on aging which operates within the planning and service area;
- b. Any office or agency of a unit of general purpose local government that is proposed by the chief elected officials of the unit;
- c. Any office or agency proposed by the chief elected officials of a combination of units general purpose local government (such as Regional Development Commissions);
- d. Any other public or private nonprofit agency.

ORGANIZATION OF THE AREA AGENCY ON AGING

An area agency may be either—

- a. An agency whose single purpose is to administer programs for older persons; or
- b. A multipurpose agency with the authority and capacity to administer human services in the area.

SELECTION CRITERIA

- a. Agency Capacity

The degree to which an applicant can demonstrate capacity to—

1. Develop and administer an area plan;
2. Serve as the advocate and focal point for older persons;
3. Meet or exceed federal and state policy and procedural requirements; and

4. Provide for sound fiscal planning, management, and control.

b. Organizational Compatibility

The degree to which an agency can demonstrate compatibility between organizational goals and the goals of the Older Americans Act through—

1. Documentation of agency mission and clarity of purpose;
2. Historical commitment to the well-being of older people; and
3. Explanation of planning and coordinating role in the community.

c. Community Support

The degree to which an agency can demonstrate—

1. Ability to provide adequate matching resources to meet the nonfederal share of AAA administrative costs;
2. Support of local governmental bodies in the planning and service area; and
3. Support of senior citizen programs, organizations, and clubs within the planning and service area.

d. Preference

In accordance with 45 CFR 1321.63 b, preference shall be given to—

1. An established office on aging; and
2. Any Indian tribal organizations where appropriate.

DEADLINES

Letters of intent must be received by the Board on or before March 10, 1985. Upon receipt the appropriate forms will be forwarded. Applications for Designation must be received by the Board by April 1, 1985. Final action shall be taken by the Board on April 19, 1985 effective January 1, 1985. Both letters of intent and application for designation should be submitted to:

Minnesota Board on Aging
204 Metro Square Building
121 East 7th Street
St. Paul, MN 55101
Attn: Ted Gredvig, Director
Program Operations
612/296-2137

Department of Labor and Industry Prevailing Wage Division

Notice of Certified Prevailing Wage Rates for Highway and Heavy and Commercial Construction

On February 1, 1985 the commissioner certified prevailing wage rates for Highway and Heavy and Commercial construction in the following Minnesota counties: Aitkin, Becker, Beltrami, Carlton, Cass, Clay, Clearwater, Cook, Crow Wing, Hubbard, Itasca, Kittson, Koochiching, Lake, Lake of the Woods, Mahnommen, Marshall, Norman, Ottertail, Pennington, Polk, Red Lake, Roseau, St. Louis, Wadena and Wilkin.

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 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 & Industry

Metropolitan Council Metropolitan Health Planning Board

Notice of Preliminary Review Schedule 1985 Annual Implementation Plan

The Metropolitan Council/Metropolitan Health Planning Board, as the federally-designated Health Systems Agency for the Seven-County Metropolitan Area, will begin its review of the 1985 Annual Implementation Plan. This yearly revision of the Annual Implementation Plan partially fulfills the requirements of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641) as amended in 1979 (P.L. 96-79) for continued funding as the designated Health Systems Agency for Minnesota Region V, for which the Metropolitan Council intends to apply by April 2, 1985.

The 1985 Annual Implementation Plan has been developed from specific action recommendations in the current Health Systems Plan and other stated priorities of the Metropolitan Council and Metropolitan Health Planning Board. It serves as the work program for the community during 1985 to attain the long-range goals in the systems plan. The 1985 Annual Implementation proposes seven objectives for the year. They are:

- Continue to collect and publish information that aids buyers of health care to make informed decisions. This objective is to be carried out by actions of Minnesota Coalition on Health Care Costs, Council of Community Hospitals, and Foundation for Health Care Evaluation.
- Community organizations, including the Twin Cities Community Program for Affordable Health Care, state department of human services, Minnesota Coalition on Health Care Costs and Metropolitan Health Planning Board shall work to ensure appropriate consumer protection and equitable access to health care under a more competitive system of health care delivery.
- Define specific policy development and coordination activities to be carried out at the regional level from the priority policy and implementation strategies in the Council's long-term care policy report. This objective is to be completed by the Metropolitan Council's programs on aging, health and housing with selected community organizations.
- Provide the general public with accurate and timely health risk factor information to promote healthful lifestyle behaviors and environments. This objective is to be carried out by the Metropolitan Council, health planning board and state department of health.
- Develop public policy and implement programs to improve perinatal health and reduce infant mortality. This objective is to be accomplished by the Metropolitan Council, health planning board, Minnesota Healthy Mothers, Healthy Babies Coalition and the Minnesota Department of Health.
- Coordinate efforts as recommended in the *Minnesota Plan for Nonsmoking and Health* to reduce the percentage of persons who smoke. This objective is to be carried out by the Minnesota Department of Health through its Center for Nonsmoking and Health.
- Complete a series of training and support services for selected Developmental Achievement Centers and vocational rehabilitation programs in the Metropolitan Area to increase their capacity to prepare developmentally disabled clients for employment and place clients in work sites. This objective is to be completed by the Metropolitan Council's Community Work Training Program.

Jan. 23, 1985	Implementation Committee of the Metropolitan Health Planning Board—review and recommend acceptance of the proposed plan for public hearing.
Jan. 23, 1985	Metropolitan Health Planning Board—review and accept the proposed plan for public hearing.
Feb. 7, 1985	Metropolitan and Community Development Committee of the Metropolitan Council—review and recommend acceptance of the proposed plan for public hearing.
Feb. 14, 1985	Metropolitan Council—review and accept the proposed plan for public hearing.
Feb. 27, 1985	Public hearing
March 13, 1985	Hearing record closes.
March 13, 1985	Implementation Committee of the Metropolitan Health Planning Board—review and recommend adoption of the final plan.
March 13, 1985	Metropolitan Health Planning Board—review and adopt final plan.
March 21, 1985	Metropolitan Community Development Committee of the Metropolitan Council—review and recommend adoption of the final plan.
March 28, 1985	Metropolitan Council—review and adopt final plan.

Department of Public Service

Outside Opinion Sought Concerning Department Rules Regulating the Commercial Use of Self-Contained and Pitless Truck Scales (MCAR 7600.7900-.8000)

Notice is hereby given that the Minnesota Department of Public Service is seeking information, comments and opinions on whether the Department should repeal or amend Minn. Rules pt. 7600.7900-.8000 (1983) and adopt new rules to allow the installation and commercial use of self-contained and pitless truck scales. Authority to adopt such rules is contained in Minnesota Statutes, Section 239.06 (1984).

BACKGROUND

Minn. Rules pt. 7600.7900 requires that commercial truck scales must be permanently installed in a concrete scale pit which serves as a foundation and as protection from weather. Under Minn. Rules pt. 7600.8000 the Department has restricted the commercial use of self-contained and pitless truck scales because of concerns about the long term stability and accuracy of such devices in an outdoor environment. Interested persons have informally suggested revisions to these restrictions on self-contained and pitless truck scales. The Department would like to determine whether there is a need for revisions and whether it will be necessary to hold a public hearing to adopt new rules.

INFORMATION REQUESTED

Outside comment on this subject will be helpful in determining whether the rules should be revised. Interested or affected groups or persons are invited to submit oral or written statements of information or comments regarding the accuracy of self-contained and pitless truck scales over extended periods of time. The Department is especially interested in comments concerning the long term stability, accuracy, structural permanence and ability of self-contained and pitless truck scales to withstand the effects of wind, weather and corrosion. The Department is also interested in technological advances that may have improved the performance of self-contained and pitless truck scales.

All interested or affected persons or groups are invited to provide oral and written information on this subject until March 21, 1985. Written information should be addressed to:

Ray Bohn, Director
Minnesota Department of Public Service
7th Floor, American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 341-7200 and in person with Ed Skluza-cek, Director, Division of Weights and Measures, Minnesota Department of Public Service, 2277 Highway 36, Roseville, Minnesota 55113.

Only written material received by the Department will become part of the record of any rules hearings held on this subject.

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 February 26, 1985.

BOARD ON JUDICIAL STANDARDS has 2 vacancies open for 1 public member and 1 municipal judge. The board investigates allegations of misconduct by Minnesota judges and recommends judicial discipline to the Supreme Court, including censure, suspension, retirement or removal of judges. Members are appointed by the Governor and confirmed by the Senate, except that Senate confirmation is not required for the judicial members. Monthly meetings; members receive \$35 per diem. For specific information contact the Board on Judicial Standards, 202 Minnesota State Bank Bldg., 200 S. Robert Street, St. Paul 55107; (612) 296-3999.

LIQUOR LIABILITY ASSIGNED RISK PLAN ADVISORY BOARD has 11 vacancies open for the following members: (4) insurer representatives; (1) risk management services vendor representative; (3) insurance agent representatives; (3) liquor vendors. The board advises the Commissioner of Commerce regarding the operation of the liquor liability assigned risk plan and related matters. Members are appointed by the Commissioner of Commerce. Members receive no compensation. For specific information contact the Liquor Liability Assigned Risk Plan Advisory Board, Thomas O'Malley, Dept. of Commerce, 500 Metro Square Bldg., St. Paul 55101; (612) 296-3588.

OFFICIAL NOTICES

ADVISORY COUNCIL ON BATTERED WOMEN has 10 vacancies open immediately. Membership includes persons knowledgeable in the fields of health, law enforcement, and social services to battered women. The council advises the Dept. of Corrections on funding for emergency shelters and programs for battered women. Monthly meetings at Metro Square Bldg. Members are compensated for expenses. For specific information contact the Advisory Council on Battered Women, Maggie Arzdorf-Schubbe, Dept. of Corrections, 430 Metro Square Bldg., St. Paul 55101; (612) 296-6463.

FAMILY FARM ADVISORY COUNCIL has 1 vacancy open for an agricultural economist. The council assists farmers in obtaining credit to purchase farm real estate by guaranteeing loans and deferring interest payments. Members are appointed by the Commissioner of Agriculture for 4 year terms. Monthly meetings; members receive \$35 per diem plus expenses. For specific information contact Family Farm Advisory Council, Wayne Marzolf, Dept. of Agriculture, 90 W. Plato Blvd., St. Paul 55107; (612) 296-8435.

METROPOLITAN WASTE CONTROL COMMISSION has 1 vacancy open for a public member from district A which includes districts 1 and 2 (St. Paul). The commission establishes and controls a regional wastewater system; adopts rules and regulations relating to operation of metropolitan waste-water treatment works. Members are appointed by the Metropolitan Council. Members must file with EPB. Members may not be members of the Metropolitan Council or any other metropolitan agency, board or commission or hold judicial office. Monthly meetings, Metro Square Bldg., St. Paul; members receive \$50 per diem. For specific information contact the Metropolitan Waste Control Commissioner, 350 Metro Square Bldg., St. Paul 55101; (612) 222-8423.

Board of Teaching

Outside Opinion Sought Concerning Proposed Rules Relating to the Licensure of Teachers of Gifted and Talented Students, Computer Science Education in the Secondary Schools, Secondary School Mathematics, American Indian Language and Culture, and World Languages

Notice is hereby given that the Board of Teaching is seeking information or opinions from sources outside the board in preparing to propose the adoption and/or amendment of rules governing the licensure of teachers of gifted and talented students, computer science education in the secondary schools, secondary school mathematics, American Indian language and culture, and world languages. Any interested persons may submit data or views on these subjects in writing or orally to:

Kenneth L. Peatross
Minnesota Board of Teaching
608 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
(612) 296-2415

Any written material received by the board shall become part of the hearing record in the event that the rules governing these subjects are promulgated.

January 22, 1985

Kenneth L. Peatross, Executive Secretary
Minnesota Board of Teaching

Department of Transportation

Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed under Minn. Statute § 169.825, Order No. 69770

Whereas, the Commissioner of Transportation has made his Order No. 68884 as amended by Orders Nos. 69226, 69269, 69270, 69344, 69353, and 69595 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under Minnesota Statutes § 169.825, and

Whereas, the Commissioner has determined that the additional following routes, or segment of routes, should be designated to carry the gross weights allowed under Minnesota Statutes § 169.825.

IT IS HEREBY ORDERED that Commissioner of Transportation Order No. 68884 is amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

TRUNK HIGHWAYS

T.H. 11—From Jct. T.H. 72 (Baudette) to Jct. T.H. 71 (Pelland) (effective 12/1).

T.H. 55—From Jct. T.H. 75 to Tenney (12 month).

T.H. 59—From Jct. T.H. 10 (Detroit Lakes) to Jct. T.H. 2 (12 month). (Change segment from 10 month 10-Ton Route to 12 month route).

January 21, 1985

Richard P. Braun
Commissioner

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 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
Contract	Photography Printing	Natural Resources	Various	Contact buyer
79-200-B	Plant Mix Bituminous-Bemidji	Transportation	Bemidji	Contact buyer
79-250-B	Plant Mix Bituminous-Crookston	Transportation	Crookston	Contact buyer
29-002-10402	All Terrain Vehicles	Natural Resources	Grand Rapids	Contact buyer
Contract	Tools-Cutting Misc.	Various	Various	Contact buyer
79-000-45058	Addendum # Soil Drilling Machine	Transportation	St. Paul	Contact buyer
43-000-05904	Upgrade Audio Visual Displays	Iron Range Resources & Rehabilitation Board	Calumet	Contact buyer
67-190-10365	Purchase of Microfilm Camera & Reader Printer	Revenue	St. Paul	Contact buyer
26-072-09184	Air Dryer	Moorhead State University	Moorhead	Contact buyer
78-620-20707	Hot Rolled Sheets	MN Correctional Facility	Stillwater	Contact buyer
43-000-05884	Furniture & Accessories	Grant's Ridge Recreation	Biwabik	Contact buyer
79-100-03195, etc.	Diamond Concrete Blades	Transportation	Various	Contact buyer
79-700-B	Plant Mix Bituminous	Transportation	Mankato	Contact buyer
79-150-A	Aggregate	Transportation	Virginia	Contact buyer
79-350-A	Aggregates	Transportation	St. Cloud	Contact buyer
Contract	Elm Tree Treatment	Administration	Capitol Complex & Ceremonial House, St. Paul	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
79-450-A	Aggregates	Transportation	Morris	Contact buyer
79-900-A	Aggregates	Transportation	N. St. Paul	Contact buyer
79-900-B	Hot Mix Bituminous	Transportation	N. St. Paul	Contact buyer
79-100-A	Plant Mix Bituminous	Transportation	Duluth	Contact buyer
79-800-B	Hot Plant Bituminous	Transportation	Willmar	Contact buyer
26-175-06012, 5482	Reprint Recruiting Viewbook	Southwest State University	Marshall	Contact buyer
26-071-14877, 5446	Mankato SU 1985-86 Undergraduate Bulletin	Mankato State University	Mankato	Contact buyer
43-000-05914, 5576	IRRRB Biennial Report	Iron Range Resources & Rehabilitation Board	Eveleth	Contact buyer
79-000-46367	Surveying Equipment	Transportation	Capitol Approach, Rm. B20 Trans. Bldg., St. Paul MN 55155	Contact buyer
79-600-B	Plant Mix Bituminous	Transportation	Rochester	Contact buyer
79-150-B	Plant Mix Bituminous	Transportation	Virginia	Contact buyer
26-073-17218	Printer & Terminal	St. Cloud State University	St. Cloud	Contact buyer
Contract	Elevator Maintenance	Minneapolis Community College	Minneapolis	Contact buyer
79-000-46411	Office Furniture	Transportation	Minneapolis	Contact buyer
79-000-46412				
55-000-90629 & 30, 5532 & 3	Eligibility Info.	Human Services	St. Paul	Contact buyer
22-300-01348, 5608	Centerpiece Brochure	Energy & Economic Development—Marketing	St. Paul	Contact buyer
55-000-90676, 5530	Your Growing Child Brochure	Human Services	St. Paul	Contact buyer
55-000-90612, 5339	DHS-2100, 2126, 2124, 2125	Human Services	St. Paul	Contact buyer
55-000-90614, 5341	DHS-29, 1842, 2530	Human Services	St. Paul	Contact buyer
26-137-03096	Purchase of Personal Computer	Metropolitan State University	St. Paul	Contact buyer
79-650-B	Plant Mix Bituminous		Owatonna	Contact buyer
02-410-43968	Protocol Converters	Administration-Information Services Bureau	St. Paul	Contact buyer
32-100-12263	Purchase of Graphic Terminals	Pollution Control Agency	Roseville	Contact buyer

Contact 296-6152 for referral to specific buyers.

Governor's Planning Council on Developmental Disabilities

Request for Proposals for Projects That Will Improve the Quantity and Quality of Employment Related Activities for Developmentally Disabled Persons

The Governor's Planning Council on Developmental Disabilities announces that it is seeking proposals from eligible public or private nonprofit organizations with the interest and capacity to undertake the following:

To improve the quantity or quality of employment related activities for developmentally disabled persons in their area of jurisdiction. Financial support will be provided by the Council using a grant from the Federal Department of Health and Human Services.

Approximately \$425,000 is available for these projects. Organizations receiving grants will be expected to begin work on the project on October 1, 1985. The grant will be for a one year period.

The guidelines to be used in the preparation of an application are available from the Council. Deadline for receipt of applications is 4:30 p.m., Friday April 19, 1985. To obtain a copy of the guidelines, please write or call:

Ronald E. Kaliszewski, Grants Administrator
Governor's Planning Council on Developmental Disabilities
201 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
Phone: (612) 297-3207

Metropolitan Council

Request for Proposals to Assist Conducting a Comparable Worth/Pay Equity Study of All Council Job Classes

The Metropolitan Council solicits a proposal for entering into a contract to assist in conducting a comparable worth/pay equity study of all Council job classes. Ten copies of the proposal should be submitted to the Metropolitan Council, Suite 300, Seventh and Robert Streets, St. Paul, MN 55101. Attention: Liz Newberry. All proposals received on or before 3:00 p.m., Feb. 27, 1985, will be considered by the Council. A pre-bid conference will be held on Feb. 15, 1985, from 9 a.m. to 11 a.m. in Room E in the Metropolitan Council offices to respond to potential proposers' questions regarding the RFP.

The Council, by this RFP, does not promise to accept the lowest, or any other proposal and specifically reserves the right to reject any or all proposals, to waive any formal requirements, to investigate the qualifications and experience of any proposer, to reject any provision in any proposal, to obtain new proposals, or to proceed to do the work otherwise.

The Metropolitan Council hereby notifies all proposers that businesses owned and controlled by minorities or women will be afforded maximum feasible opportunity to submit proposals, and no proposer will be subjected to discrimination on the basis of race, color, sex, age, religion, ancestry, handicap, public assistance status, marital status, national origin or political affiliation.

Questions and requests for copies of the RFP should be directed to Liz Newberry (612) 291-6575.

Metropolitan Council

Request for Proposals to Prepare an Environmental Assessment Worksheet (EAW) for Placing Sludge Ash on Pig's Eye Landfill Site

The Metropolitan Council solicits a proposal for entering into a contract for the preparation of an environmental assessment worksheet on the placing of approximately 300,000 cubic yards of ash on the old Pig's Eye landfill site in St. Paul. Five copies of the proposal should be submitted to the Metropolitan Council, Suite 300, Seventh and Robert Sts., St. Paul, Minn. 55101, Attention: James Frost.

The Council, by this RFP, does not promise to accept the lowest, or any other proposal and specifically reserves the right to reject any or all proposals, to waive any formal requirements, to investigate the qualifications and experience of any proposer, to reject any provision in any proposal, to obtain new proposals, or to proceed to do the work otherwise.

All proposals received on or before 1 p.m., February 25, 1985, will be considered by the Council. In the event a proposal is accepted, the Council will notify the successful proposer in writing within 30 days following its consideration of the proposal.

The Metropolitan Council hereby notifies all bidders that businesses owned and controlled by minorities and women will be afforded maximum feasible opportunity to submit a proposal and will not be subject to discrimination on the basis of race, color, sex, age, religion, ancestry, handicap, public assistance status, marital status, national origin or political affiliation.

Copies of the RFP can be obtained by contacting James Frost at (612) 291-6519.

Telecommunications Council

Request for Proposals to Prepare Telecommunications Infrastructure Inventory and Analysis

The Minnesota Telecommunications Council intends to solicit proposals for entering into a contract for professional consultants.

STATE CONTRACTS

to assist in the preparation of an inventory and analysis of the telecommunications infrastructure of the State of Minnesota outside the seven counties of the metropolitan area.

The budge available for the non-metropolitan infrastructure study is a maximum of \$50,000.

For further information about this proposed infrastructure study or for copies of the request for proposal, contact: Richard J. Dethmers, Director, Special Projects, Minnesota State Planning Agency at (612) 296-3089.

The deadline for receipt of proposal is February 25, 1985.

Department of Transportation

Public Notice to Minnesota Consulting Engineers Regarding Construction Plans for a Bridge Over the Mississippi River at Wabasha

The Minnesota Department of Transportation intends to engage a consultant to design and prepare construction plans for Bridge No. 79000 (T.H. 60 over the Mississippi River) at Wabasha, Minnesota.

Design limits may include the complete bridge (approximately 2450 feet long) or may include only the main channel span (approximately 470 feet long) with supporting piers.

Work is proposed to start in July of 1985. Approximately one year anticipated for completion.

Firms desiring consideration should submit their expression of interest along with their Federal Forms 254 and 255 to:

Mr. B. E. McCarthy
Consultant Services Engineer
Room 612B
Transportation Building
St. Paul, MN 55155

Response deadline 4:30 p.m., February 25, 1985.

SUPREME COURT

Decisions Filed Friday, January 25, 1985

Compiled by Wayne O. Tschimperle, Clerk

C8-83-1010, CX-83-1185 In the Matter of the Trust Created Under Agreement with Daniel T. McLaughlin Dated December 17, 1969. Hennepin County.

A provision in a trust instrument defining "issue" as all persons descended from the settlor "either by legitimate birth to or legal adoption by him or any of his legitimately born or legally adopted descendants" includes an adopted-out child legitimately born to settlor's son.

A trust beneficiary's interest in the residue of a trust which contains a spendthrift clause is not subject to garnishment by a creditor of the beneficiary until the residue has, in fact, been distributed to the beneficiary.

Affirmed. Amdahl, C.J.

Dissenting, Kelley, J., Yetka, J., and Peterson, J.

C9-83-89 Carol Dennis Toombs v. David M. Daniels, John Daniels, and Amelia Luzaich, Thomas Truman Daniels, et al., Appellants. In the Matter of the Trusteeship of the Trust Created Under the Agreement and Declaration of Trust dated March 1, 1920, By and Between John W. Daniels, Thomas L. Daniels, Amelia L. Daniels and Frances H. Daniels, as Subscribers and John W. Daniels, Thomas L. Daniels and Amelia L. Daniels, as Trustees. Hennepin County.

"Clearly erroneous" standard of appellate review applies despite presence of documentary evidence, where greater volume of evidence was disputed oral testimony.

Phrase "children hereafter born to" in a trust instrument is technical phrase delineating class to which adoptees belong by virtue of 1923 adoption statute.

Draftsman who knew how to explicitly exclude future generation of adoptees would have used similar language to exclude adopted children of settlors.

Extrinsic evidence of settlors' intent to exclude adoptees insufficient to overcome presumption of inclusion.

Because trustees breached fiduciary relationship by silence, statute of limitations under Minn. Stat. § 541.05, subd. 1(6) did not begin to run until action was brought.

Statute of limitations under Minn. Stat. § 541.05, subd. 1(7) does not begin to run as to corpus until date of final distribution but begins to run as to each income payment when made.

Prejudgment interest in trust case is awarded upon liquidated or readily ascertainable damages and equitable basis for award, in this case, wrongful withholding of material information.

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

Dissenting, Kelley, J., and Coyne, J.

C0-83-398 State of Minnesota v. William E. Marhoun, Appellant. Chisago County.

Affirmed in part, and vacated in part. Todd, J.

C0-84-72 Lulabell Cavanaugh, Relator, v. Frederick Willys, Inc., et al. Workers' Compensation Court of Appeals.

The determination that employee did not establish permanent total disability by a preponderance of the evidence and the underlying findings that her work injuries did not contribute substantially to her disability and that she has a capacity to find work are manifestly contrary to the evidence.

Reversed. Todd, J.

Dissenting, Coyne, J., Amdahl, C.J. and Peterson, J.

C7-83-401 State of Minnesota v. Dennis K. Vaughn, Appellant. Ramsey County.

Defendant was properly convicted on three counts of knowingly transferring stolen property having a value of \$150 or more and was properly sentenced under the Minnesota Sentencing Guidelines.

Affirmed. Todd, J.

C8-84-868 David Zanmiller, Relator, v. Montgomery Ward, Self-Insured, Steven Keefe, Commissioner of the Department of Labor and Industry, Intervenor. Workers' Compensation Court of Appeals.

The provision in Minn. Stat. § 176.102, subd. 6 (Supp. 1983), requiring a party to appeal from a decision concerning rehabilitation or retraining to the Rehabilitation Review Panel within 30 days of the decision is jurisdictional. Therefore, the Workers' Compensation Court of Appeals cannot remand and thereby confer jurisdiction on the Rehabilitation Review Panel of an appeal that was not filed in accordance with the requirements of Minn. Stat. § 176.02, subd. 6 (Supp. 1983).

The order for remand is reversed. Todd, J.

CX-83-1025 State of Minnesota v. Deotis Livingston, Appellant. Ramsey County.

Defendant was properly found guilty of wrongfully obtaining welfare benefits.

Affirmed. Simonett, J.

C7-84-747 Raymond Polaschek v. Asbestos Products, Inc., and Homes Insurance Company; E & S Insulation and North River Insurance Company; E & S. Insulation and Home Insurance Company; E & S Insulation Company and Aetna Fire Underwriters Insurance Company; Hickory Insulation Company and Maryland Insurance Company; Ed H. Anderson Company and Firemen's Fund Insurance Company; Asbestos Insulation & Supply and Bituminous Insurance Company; Asbestos Insulation & Supply and Reliance Insurance Company; Hippler Insulation Company and Western Fire Insurance Company, Relators. Workers' Compensation Court of Appeals.

The compensation judge's finding that employment exposure to asbestos from October 1971 to October 1974 had been a substantial contributing causative factor in employee's disablement in 1981 and his subsequent disability due to asbestosis is supported by substantial evidence in view of the entire record. Consequently, the Workers' Compensation Court of Appeals exceeded its power of review under Minn. Stat. §§ 176.421 and 176.441 (1983 Supp.) in substituting its finding that employee's disablement had been the substantial result of employment exposure to asbestos between March 1980 to June 10, 1981.

The compensation judge correctly imposed liability on the employer during the period from October 1971 to October 1974.

SUPREME COURT

The statutes in effect on June 11, 1981, the date of employee's disablement, govern the amount of compensation to which he is entitled.

Reversed in part, affirmed in part and remanded. Kelley, J.

Took no part, Coyne, J.

C7-83-1578 Russell Maurice Houser, Deceased Employee, by Glennice Houser v. Dan Dugan Transport Company, et al., Relators. Workers' Compensation Court of Appeals.

Granddaughter, of employee killed in a work related accident, who at the time of the employee's death resided in his household and who received substantial support from the decedent was a "member of decedent's family" and "dependent" upon him within the meaning of Minn. Stat. § 176.011, subd. 2 (1982), and accordingly is entitled to dependency benefits under the worker's compensation statute.

Affirmed. Kelley, J.

Dissenting, Peterson J., and Amdahl, C.J.

C4-84-1032 In the Matter of the Application for the Discipline of Robert D. Reutter an Attorney at Law of the State of Minnesota. Supreme Court.

This attorney, convicted of trafficking cocaine and sentenced to 14 years in prison is disbarred.

Disbarred. Per Curiam.

C4-84-981, C0-84-1223 In Re Charges of Unprofessional Conduct Against N.P. Supreme Court.

The petitions for extraordinary relief are denied. Per Curiam.

Took no part, Coyne, J.

Order Filed January 15, 1985

Order Filed January 15, 1985

C0-83-658 In the Matter of the Application for the Discipline of B.J. Loftsgaarden, an Attorney at Law of the State of Minnesota. Supreme Court.

Publicly reprimanded. Amdahl, C.J.

Took no part, Coyne, J.

ERRATA

Corrections Department

Correction of Part Number for Adopted Rules Governing Group Foster Homes

The wrong part number was printed in the *State Register* on page 168, in the Repealer section of the Proposed Rules Governing Group Foster Homes. The part number printed was 2925.1900, subpart 3; the number should have read 2925.2000, subpart 3.

The rules were proposed on July 16, 1984 (9 SR 160), and adopted on January 21, 1985 (9 SR 1656).

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