

85, May 20

STATE REGISTER

STATE OF MINNESOTA

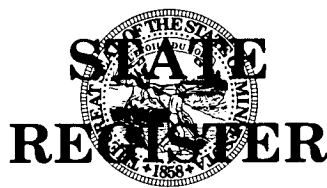
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May 20, 1985

Pages 2503-2558



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			
48	Monday May 13	Monday May 20	Monday May 27
49	Monday May 20	Friday May 24	Monday June 3
50	Friday May 24	Monday June 3	Monday June 10
51	Monday June 3	Monday June 10	Monday June 17

*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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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).
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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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Issues 27-38, inclusive	

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EXECUTIVE ORDERS

Executive Order No. 85-11

Providing for the State Use of Compost Products

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, approximately one-third of all landfills in the state will be filled in the next five years and siting of new landfills is unpopular with the public when much waste could be composted; and

WHEREAS, it is the goal to improve waste management in Minnesota through:

- a. reduction in waste generated,
- b. separation and recovery of materials and energy from waste,
- c. reduction in indiscriminate dependence on disposal of waste,
- d. coordination of solid waste management among political subdivisions,
- e. orderly and deliberate development and financial security of waste facilities including disposal facilities; and

WHEREAS, the technology exists for the cost-effective conversion of waste into usable and marketable compost products; and

WHEREAS, compost products can be beneficial to soil structure as a source of organic material thereby increasing tilth and improving moisture and nutrient retention capabilities; and

WHEREAS, there is presently a lack of paying markets and marketing histories in the state for compost products; and

WHEREAS, the use of compost products by state agencies can help to substantiate the worth of the products, and help to encourage the development of markets in the private sector; and

WHEREAS, the use of compost products will help to encourage the construction of compost facilities in the state resulting in the creation of new jobs, increased economic activity, the conversion of waste into new useful products, and the reduction in dependence upon landfills; and

WHEREAS, it is in the public interest to provide consideration for the state use of compost products because these products reduce the need for land disposal facilities and will assist the state in providing new alternatives to the indiscriminate use of landfills; and

WHEREAS, the Legislative Commission on Minnesota's Resources has recommended funding for the University of Minnesota to conduct a compost market research project; and

WHEREAS, there is recognition of the need for staged implementation of composting facilities and compost market development;

NOW, THEREFORE, I order that:

1. All state departments and agencies that use black dirt or soil amendments demonstrate the use of compost under various conditions and using various compost types and mixes, at their earliest convenience, with any necessary research design assistance provided by the University of Minnesota.

2. All state departments and agencies examine their rules and permit requirements to determine if opportunities exist for affecting and expediting the use of compost.

3. All state departments and agencies evaluate their yard waste management practices and employ on-site waste reduction and composting when feasible.

4. The Pollution Control Agency continue to oversee compost processing facilities to ensure that applicable environmental and health standards and rules are complied with.

5. The Department of Agriculture continue to oversee the use of compost products offered for sale to ensure compliance with appropriate rules.

6. Following and conditioned upon successful completion of the above activities, all state departments and agencies revise their procedures and specifications to give preference to compost products, as defined, when they can be substituted for, are available, and cost no more than regular fertilizer, black dirt, or soil amendment products, if the compost products meet applicable standards and rules.

7. For the purposes of this Order, "compost products" means an end-product produced from the controlled microbial degradation of organic waste.

Pursuant to Minnesota Statutes 1982, Section 4.035, this Order shall be effective 15 days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I hereunto set my hand this 22nd day of April, 1985.



Executive Order No. 85-12

Providing for a State Affirmative Action Council

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, the State of Minnesota is committed to equal employment opportunity throughout state government; and

WHEREAS, the State of Minnesota is directed by federal law and by state law to formulate an affirmative action program to provide equal employment opportunity in state government; and

WHEREAS, the State of Minnesota has a responsibility to ensure the optimum use of the state's human resources and to maintain a workforce which reflects the diversity of the state's population; and

EXECUTIVE ORDERS

WHEREAS, affirmative action should be monitored at the highest levels of state government;
NOW, THEREFORE, I order that:

1. There is hereby created an Affirmative Action Council to monitor the State's Affirmative Action Program and to advise the Governor and the Legislature on equal employment opportunity.
2. The Council shall be composed of the following:
 - a. Lieutenant Governor
 - b. Attorney General
 - c. Commissioner of Human Rights
 - d. Commissioner of Employee Relations
 - e. State Director of Equal Opportunity.
3. The Lieutenant Governor shall serve as Chairperson of the Council.
4. Duties of the Council:
 - a. The Council shall monitor the State's Affirmative Action Program, identify issues needing attention by the state, and make policy recommendations to the Governor.
 - b. The Council shall meet at least four times each year.
 - c. The Council shall prepare an annual report assessing the performance of the state government and the operating agencies in the area of affirmative action. The report shall also identify barriers to the full utilization of all protected groups. The report shall be presented to the Governor no later than March 1st of each year.
5. Administrative Provisions: The Department of Employee Relations shall provide staff support as deemed necessary for the Council to fulfill its duties.

Pursuant to Minnesota Statutes 1982, Section 4.035, this Order shall be effective 15 days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I hereunto set my hand this 3rd day of May, 1985.



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.

Board of Accountancy

Proposed Rule Relating to Application Fees for Certified Public Accountant Examinations

Notice of Intent to Amend Rule without a Public Hearing

Notice is hereby given that the Minnesota Board of Accountancy ("Board") proposes to adopt the above-entitled amendment to an existing rule of the Board without a public hearing. A public hearing will not be held on these rules, in accordance with Minnesota Statutes §§ 14.22, 16A.128 and 214.06 (1984).

Persons interested in this rule have 30 days to submit comments in support of or in opposition to the proposed amendment. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Persons who wish to submit comments should submit such comments within 30 days following the publication of this notice to:

Pamela K. Azer
Executive Secretary
Board of Accountancy
500 Metro Square Building
St. Paul, Minnesota 55101
Telephone: (612) 296-7937

Authority for the adoption of this rule is contained in Minnesota Statutes §§ 16A.128, 214.06, 326.17, 326.18 and 326.22, subd. 1 (1984). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Ms. Azer upon request.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to its legality, and as to its form to the extent the form relates to legality, including the issue of substantial change, and for a determination as to whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, will be notified if they submit a written request for notification to Ms. Azer.

A copy of the proposed rule follows.

Copies of this notice and the proposed rule are available and may be obtained by contacting Ms. Azer.

Bertram L. Chez, Chairman
Board of Accountancy

PROPOSED RULES

Rule as Proposed

1100.3600 FEES.

Subpart 1. Application fees other than annual license fees. Applications shall be accompanied by fees in the following amounts:

A. Application for certified public accountant examination by first time applicants, ~~\$100~~ \$115.

B. Application for certified public accountant reexamination in failed subjects, ~~\$25~~ \$27 per subject but not in excess of \$100 \$115. Accounting practice is considered to be two subjects. Part 1100.1400, subpart 4 provides that applicants must apply for reexamination in all failed subjects.

C. to E. [Unchanged.]

Department of Commerce

Proposed Rule Authorizing Issuance of Medical Malpractice Insurance by the Minnesota Medical Malpractice Joint Underwriting Association

Notice of Hearing

Notice is given that a public hearing will be held pursuant to Minn. Stat. § 14.14 (1984), in the above-entitled matter in the Large Hearing Room, 500 Metro Square Building, St. Paul, Minnesota 55101, on June 25, 1985, at 9:00 A.M. and continuing until all interested persons and groups have had an opportunity to be heard concerning adoption of the proposed rule 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, Jon L. Lunde, 4th Floor, Summit Bank Building, 310 4th Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7645. The rulehearing procedure is governed by Minn. Stat. § 14.02-14.45 (1984), and by Minn. Rule 1400.1200 (1984). Questions regarding procedure may be directed to the Administrative Law Judge at the above-listed address.

The Commissioner is seeking to determine if there is medical malpractice insurance available in the voluntary market for either physicians, hospitals or other types of health care providers. If it is determined that such insurance is not available, the Commissioner will issue a rule authorizing the Joint Underwriting Association, established by Minn. Stat. Chapter 62F, to issue medical malpractice insurance on a primary basis to physicians, hospitals or other health care providers.

The Department has elected to consider the proposed rule of the Commissioner authorizing the issuance of medical malpractice insurance by the Joint Underwriting Association to be a rule and is accordingly proceeding pursuant to Chapter 14 of Minnesota Statutes in regard to the rule.

Notice is hereby given that a Statement of Need and Reasonableness is available for review at the Department of Commerce and will be available at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Pursuant to Minn. Stat. § 14.115, subd. 2, the impact on small business has been considered in the promulgation of the rule. Anyone wishing to present evidence or argument as to the rule's effect on small business may do so. The Department's position regarding the impact of the rule 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 rule, or a suggested modification, or for other purposes material to the evaluation or formulation of the proposed rule.

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. Comments received during the comment period shall be available for review at the Office of Administrative Hearings. 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 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 agency may not take any final action on the rule for a period of five working days. 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. Any person may request notification of the date on which the rule was adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rule is filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rule 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:

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

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

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

One free copy of this notice and the proposed rule may be obtained by contacting Richard G. Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, Minnesota 55101 or by calling (612) 296-5689. Additional copies will be available at the door on the date of the hearing. Comments regarding the hearing may be directed to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, Minnesota 55101.

May 2, 1985

Michael A. Hatch
Commissioner of Commerce

Rule as Proposed (all new material)

2791.0100 AUTHORIZATION TO ISSUE MEDICAL MALPRACTICE INSURANCE.

Pursuant to Minnesota Statutes, section 62F.04, the joint underwriting association is hereby authorized to issue medical malpractice insurance on a primary basis to physicians, hospitals, and other health care providers who are unable to obtain medical malpractice insurance coverage in the voluntary market.

Department of Energy and Economic Development Energy and Economic Development Authority

Proposed Rules Relating to Small Business Development; Special Assistance; Pollution Control Agency Finance

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Energy and Economic Development Authority proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes 116M.08, subd. 4.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

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Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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

Terry Brown
Financial Management Division
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
Telephone: 612/297-1981

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule.

These rules govern loan application procedures for the Minnesota Energy and Economic Development Authority's business financial assistance and pollution control financing assistance programs. The small business development loan program issues financial assistance in a form involving a guarantee or insurance from the economic development fund or any account thereof and revenue bonds to finance small business loans. The Minnesota fund loan program issues business loans for fixed-asset financing for new and existing businesses. The special assistance program provides financial assistance to businesses that are designated as being in need of special assistance.

(A copy of the rule is available for review from Terry Brown at the above address upon request.)

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Terry Brown at the above address upon request.

If no hearing is required, upon adoption of the noncontroversial rule, the rule and the required supporting noncontroversial rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the data of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, must submit the written request to Terry Brown at the above address.

May 6, 1985

Mark B. Dayton
Chairman, Minnesota
Energy and Economic
Development Authority

Rules as Proposed

8300.0050 SCOPE.

Parts 8300.0100 to 8300.3013 are general rules that apply to all applications for financial assistance made available by the authority under the act and under Minnesota Statutes, chapter 472.

8300.0100 DEFINITIONS.

Subpart 1. Statutory definitions. The terms defined in Minnesota Statutes, ~~section 116J.88~~ have the same meanings when used in sections 116M.03 and 472.03 and this part apply to this chapter 8300 as ascribed to them in the act.

Subp. 2. Act. "Act" means Laws of Minnesota 1980, chapter 547.

Subp. 2a. Applicant. "Applicant" means a person, partnership, firm, corporation, or association that applies to the authority for financial assistance.

Subp. 2b. Authority. "Authority" means the Minnesota Energy and Economic Development Authority, ~~formerly known as the small business finance agency.~~

Subp. 3. Commissioner. "Commissioner" means the commissioner of energy and economic development or his or her designee.

Subp. 4. Financial assistance. "Financial assistance" means loans, loan guarantees or insurance, and any other use of funds permitted by the act.

Subp. 5. Members. "Members" means the commissioner and those persons appointed to the authority under Minnesota Statutes, section ~~16J.89~~ 116M.09.

Subp. 6. Project. "Project" means that which is funded or secured, or is proposed to be funded or secured, by financial assistance.

Rules as Proposed (all new material)

8300.3011 PROCEDURES FOR FINANCIAL ASSISTANCE APPLICATIONS.

Subpart 1. In general. To apply for assistance from the authority, an applicant shall submit an application form to the commissioner on a form provided by the commissioner. An application must be completed, dated, and signed by an owner, general partner, or an authorized officer of the applicant. The commissioner shall follow the procedures under part 8300.3014.

Subp. 2. Contents. An application must contain at a minimum the following information:

A. A written history of the business.

B. The source and use of funds to finance the project.

C. Financial statements that include a balance sheet, an operating statement, a statement of the sources and uses of funds, and footnotes to the statements if available for the following time periods:

(1) Financial statements from the previous three years, if applicable. If unaudited, the statements must be signed by an authorized financial officer of the business making application.

(2) A current quarterly financial statement that was compiled within 90 days of the date the application was submitted, if quarterly financial statements are regularly prepared.

(3) Federal tax returns filed by the business for the previous three years if applicable, if the applicant is an individual or partnership.

(4) A proforma balance sheet and income statement for the 24 months following the financial assistance closing that shows the financial position of the applicant and that includes the proposed financing.

D. A marketing plan that describes:

(1) the industry the applicant is in;

(2) the economic outlook of that industry for the next three to five years;

(3) the major characteristics of the industry, names, locations, products, or services provided;

(4) the duration and conditions of the applicant's contracts currently in place; and

(5) the percentage of annual sales volume for each major customer over the previous three years.

E. Current resumes of key personnel and signed personal financial statements dated as of the date of the application for any person who owns 20 percent or more interest in the business.

F. A resolution of support or other comparable preliminary approval from the local government unit with respect to the project to be financed or secured with financial assistance.

G. A statement of informed consent by the applicant regarding the use and dissemination of the private data as provided in Minnesota Statutes, section 13.05, subdivision 4, paragraph (d). If the applicant is a corporation, then an authorized representative of the applicant shall provide a statement of informed consent in a form similar to that provided in Minnesota Statutes, section 13.05, subdivision 4, paragraph (d).

H. Certification that the employer does not discriminate in employment in a manner contrary to applicable federal or state laws and rules.

I. Certification of business compliance with all federal, state, or local laws or rules that affect the conduct of business in the state.

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Subp. 3. Business plan. As part of the application, the applicant shall submit to the commissioner a comprehensive business plan. The business plan must include, but is not limited to, the following:

- A. a management summary of the plan including:
 - (1) name of the business;
 - (2) business location and plan description;
 - (3) discussion of the product, market, and competition;
 - (4) expertise of the management team;
 - (5) summary of financial projections;
 - (6) amount of financial assistance requested;
 - (7) form of and purpose for the financial assistance;
 - (8) purpose for undertaking the project; and
 - (9) business goals;

- B. a description of the company including the following:
 - (1) date and state of incorporation, date and state of formation of partnership, or date and state of formation of sole proprietorship;
 - (2) history of the company; and
 - (3) principals and the roles they played in the evolution of the company;
- C. a market analysis including:
 - (1) description of the current industry status and industry trends;
 - (2) effects of major social, economic, technological, or regulatory trends on the industry;
 - (3) description of the total market, principal market participants, and their performance; and
 - (4) discussion of the target market and competition;
- D. a description of the product or product line including:
 - (1) list of patents, copyrights, licenses, or statement of the proprietary interest in the product or product line;
 - (2) discussion of technical and legal considerations;
 - (3) comparisons to competitors' products or product lines; and
 - (4) description of research and development and future plans for research and development;
- E. a description of the marketing strategy including:
 - (1) overall strategy;
 - (2) pricing policy;
 - (3) sales channels and terms;
 - (4) method of selling, distributing, and servicing product;
 - (5) estimated sales and market share; and
 - (6) advertising, public relations, and promotion;
- F. the management plan including:
 - (1) form of business organization;
 - (2) board of directors composition, if applicable;
 - (3) officers organization chart and responsibilities; and
 - (4) resumes of key personnel;
- G. an operating plan including:
 - (1) schedule of upcoming work for the next one to two years;
 - (2) facilities plan or planned capital improvements for the next three years;

- (3) manufacturing processes; and
- (4) staffing plan (number of employees);
- H. a schedule indicating the completion dates for realizing the significant aspects of the business plan;
- I. a discussion of the risks and problems inherent to the business plan, including both the negative factors and plans to minimize the impact of those factors; and
- J. financial data including:
 - (1) a funding request indicating the desired financing, capitalization, use of funds, and future financing;
 - (2) financial statements for the past three years, if applicable;
 - (3) current financial statements;
 - (4) monthly cash flow financial projections including the proposed financing for two years; and
 - (5) projected balance sheets, income statement, and statement of changes in financial position for two years including the proposed financing.

8300.3012 COLLATERAL REQUIREMENTS AND ADDITIONAL INFORMATION OR CERTIFICATIONS.

Subpart 1. Collateral requirements. The authority shall require collateral as it considers necessary in accordance with generally accepted commercial lending practices to protect the interests of the authority in the financial assistance. At a minimum, the collateral will take one or more of the following forms:

- A. mortgage on real property;
- B. security position on personal property;
- C. security of its financial assistance with assets being financed by the financial assistance and other assets of the company to protect the interests of the state's financial participation;
- D. letter of credit or equivalent instrument;
- E. guarantees or other assurances of repayment of affiliates of the applicant or other interested parties with respect thereto;
- F. guarantees or other assurances of repayment of shareholders or partners who have 20 percent or more ownership in the applicant;
- G. bond insurance or other credit enhancements; and
- H. assignments of leases or rents on property or equipment.

Subp. 2. Additional information or certifications. The following additional information, as applicable, is required by the authority prior to disbursing financial assistance, as well as any other information that the authority in its sole discretion considers advisable for prudent financial management of authority financial assistance:

- A. a lease agreement on property or equipment;
- B. a listing of property, including serial numbers for machinery and equipment, that will serve as collateral to the financial assistance;
- C. certification of insurance for workers' compensation and employer's liability;
- D. a statement provided by the Internal Revenue Service of tax clearance;
- E. an appraisal of collateral offered to the authority for the financial assistance; and
- F. a certificate of the insurers of all collateral that insurance is in force and effect. Prior to expiration of any insurance policy, the applicant shall furnish the commissioner with evidence that the policy has been renewed, replaced, or is no longer required.

8300.3013 PROCEDURES FOR APPLICATION PROCESSING.

Subpart 1. Deadline for submission. The applicant shall submit a complete application to the commissioner by the first business day of any month in order for the authority to consider it in that month. If an application is received after the first of the month and can

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be reviewed by the commissioner for eligibility and financial feasibility prior to the authority agenda deadline, the authority may consider the application at the meeting in that month.

Subp. 2. Completed applications. An application is complete when the commissioner receives all required documentation and exhibits.

Subp. 3. Incomplete applications. If an incomplete application is received, the commissioner shall notify the applicant of specific deficiencies in the application. The applicant has 60 days from the date of mailing of the commissioner's notification to complete the application. If the application is not completed and received by the commissioner within 60 days, the application is deemed to be rejected and the applicant shall reapply to be further considered.

Subp. 4. Review of eligibility of project and applicant. The commissioner shall review all completed applications to determine if the project and the applicant are eligible and meet the requirements of the act and any of parts 8300.3011 to 8300.3014 and any parts relating to the financial assistance for which the applicant has applied.

If the project and applicant are eligible, the commissioner shall review the application for economic feasibility as provided in subpart 6.

Subp. 5. Ineligible project or applicant. The commissioner shall notify the applicant in writing if the applicant or the project is ineligible. The applicant has 30 days from the date of the commissioner's notification to amend the application.

Upon receipt of an amended application, the commissioner shall review the amended application under subpart 4. The commissioner shall reject the amended application if the project or applicant are ineligible. If the project and applicant are eligible, the commissioner shall review the amended application for economic feasibility under subpart 6.

If the application is not amended within 30 days, the application must be rejected and will not receive any further consideration.

Subp. 6. Economic feasibility review. The commissioner shall review the application in accordance with generally accepted commercial lending practices, including the use of the standards as printed in the most current annually updated version of the Annual Statement Studies, issued by Robert Morris Associates, Philadelphia, PA.

The commissioner shall obtain any other credit information when available from private credit rating agencies including, but not limited to, Standard & Poors and Dun & Bradstreet. In accordance with generally accepted commercial lending practices, the commissioner may check personal references.

The commissioner shall determine if the applicant can generate sufficient cash flow and maintain a sound financial condition.

The commissioner shall determine if there is sufficient collateral for the financial assistance. The submission of the application by the commissioner to the authority at a board meeting shall be deemed conclusive evidence that the commissioner has made the determinations required pursuant to this subpart.

Subp. 7. Rejection of application based on economic feasibility. The commissioner shall notify the applicant in writing if the application is not economically feasible and the application is rejected.

If the application is rejected due to economic feasibility, the applicant may, within 30 days after written notification by the commissioner, request that the commissioner submit the rejected application to the authority for review at the next regularly scheduled meeting of the authority for which the agenda has not been established.

If so submitted, the authority must evaluate the application at its board meeting, in accordance with subpart 9.

Subp. 8. Certification of public purpose for small business and business loans. In addition to the economic feasibility review in subpart 6, the applicant must certify that the project assists in fulfilling the purposes of the act as expressed in Minnesota Statutes, section 116M.09, or assists in fulfilling one or more of the following criteria:

- A. The applicant is located in an area of the state that is experiencing one of the most severe unemployment rates in the state.
- B. The applicant is located in a border community that experiences a competitive disadvantage due to location and with this financial assistance the applicant would be induced to stay in Minnesota rather than to move to another state.
- C. The applicant is likely to expand within the state and to create additional taxable property to local units of government.
- D. The financial assistance applied for will help induce the applicant to locate in an area of economic distress or will help to provide jobs that would not otherwise be available to that area without the inducement of this financial assistance.
- E. The financial assistance applied for will create or maintain sufficient numbers and types of jobs to justify participation in the financial assistance programs.
- F. Energy sources and public facilities will be sufficient to support the successful operation of the project.
- G. If the financial assistance will have the effect of a transfer of employment from one area of the state to another, that the

project is economically advantageous to the state or that the project is necessary to the continued operation of the business enterprise within the state.

Subp. 9. Authority evaluation procedure. Applications approved for processing by the commissioner must be presented to the authority for approval or disapproval. The authority shall review and consider approval of an application on the basis of effectuating the purposes of the act as expressed in Minnesota Statutes, section 116M.09 or assists in fulfilling one or more of the criteria listed in subpart 8. If the authority disapproves the application, the commissioner shall so notify the applicant. If the authority approves the financial assistance, it shall pass a preliminary or a final resolution giving approval to the project to be financed and stating in either the preliminary or final resolution or combination of both the name of the project owner; a brief description of the project; the maximum amount of bonds to be issued, or the maximum amount of the loan to be made, or the maximum amount of the loan to be guaranteed or insured, whichever is applicable; and other provisions as the authority in its sole discretion deems advisable for prudent financial management of authority financial assistance. The commissioner shall notify the applicant of the authority's approval and provide the applicant with a copy of the resolution passed. If the financial assistance is funded by bonds, then passage of a preliminary and a final resolution as provided in subpart 10 are required before financial assistance is approved. Throughout this process if the authority does not extend financial assistance, the authority has no liability to the applicant.

Subp. 10. Funding of financial assistance by bonds. If the authority intends to fund the financial assistance by issuing bonds, the authority shall first pass a preliminary resolution. The preliminary resolution must not obligate the authority to issue bonds or to fund financial assistance, but must only constitute an expression of current intention of the authority to issue bonds or to fund the financial assistance. If the authority subsequently determines that there are no adverse changes in the financial conditions or key personnel of the applicant, market conditions, availability of bond issuance authority, and other conditions that the authority deems necessary and the authority decides in accordance with generally accepted commercial lending practices to make financial assistance available, the authority shall pass a final resolution that authorizes the issuance and sale of bonds to extend financial assistance. The final resolution must specify the terms and conditions under which bonds will be issued. The preliminary resolution may contain a time limit with respect to the issuance of the bonds, may be revoked or amended by the authority at any time prior to the final resolution of the authority without liability to the authority, and may impose any conditions or requirements that the authority deems desirable. The commissioner shall notify the applicant of the authority's approval and provide the applicant with a copy of the resolution passed. Throughout this process, if the authority does not extend financial assistance, the authority has no liability to the applicant.

Subp. 11. Preparation of documents. The commissioner has the authority and responsibility to prepare or cause to be prepared all necessary documents and to execute them on behalf of the authority.

SMALL BUSINESS DEVELOPMENT LOAN PROGRAM

8300.3020 PURPOSE OF SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.

The small business development loan program issues financial assistance in a form involving a guarantee or insurance from the economic development fund or any account thereof and revenue bonds to finance small business loans.

8300.3021 ELIGIBLE APPLICANTS FOR SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.

Persons, partnerships, firms, or corporations engaged in and determined by the authority to constitute a small business as defined in the regulations of the United States Small Business Administration, Code of Federal Regulations, title 13, part 121, are considered eligible small businesses or eligible applicants.

8300.3022 ELIGIBLE LOANS FOR SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.

Subpart 1. In general. The authority shall make small business loans to applicants in compliance with the act and parts 8300.3011 to 8300.3024 in order to help create or retain jobs for the state.

Subp. 2. Purpose of loan. A small business loan must be used to provide interim or long-term financing for certain capital expenditures as provided in the act, and for expenditures that meet the requirements of federal industrial development bond laws, including:

- A. acquisition costs of land, buildings, or both;
- B. site preparation;
- C. construction costs;

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- D. engineering costs;
- E. costs of equipment, machinery, or both;
- F. bond issuance costs;
- G. underwriting or placement fees;
- H. trustee's fees;
- I. fee of guarantor, insurer, or financial institution, other than the authority, who provides letters of credit, surety bonds, or equivalent security;
- J. authority fees, including application and guaranty fees of the authority and administrative costs and expenses;
- K. certain contingency costs;
- L. interest costs during construction;
- M. legal fees, including those of the authority's bond counsel; and
- N. debt service reserve fund.

Working capital loans are not eligible for financial assistance under this loan program.

Subp. 3. Size of eligible loans. The principal amount of any financial assistance in the form of bonds to be financed by the authority may not be less than \$250,000, unless the applicant agrees to pay all bond issuance costs, and may not exceed the maximum amount permitted to be loaned to an eligible small business as defined in the act for the total value of eligible items listed in subpart 2.

Subp. 4. Equity requirements. The maximum amount of a loan for project equipment is 75 percent of the cost of the equipment, and for all other authorized project expenses is 80 percent of the cost. The applicant must contribute at least 25 percent of the cost of project equipment and at least 20 percent of all other costs. Instead of a cash equity contribution the authority shall accept collateral which, if contributed to the financial assistance, would make the maximum loan percentage of the project costs for equipment equal to 75 percent and for all other authorized expenses equal 80 percent. The authority may require a lower loan to project percentage based upon the economic feasibility of the application. The authority may accept letters of credit or other credit enhancements as part of the equity contribution by the applicant.

Subp. 5. Maximum term. The maximum term of a small business development loan may not exceed the average useful life of the real property, or 80 percent of the useful life of the equipment or machinery, or the following limits, whichever is less:

- A. for real property, land, or buildings, 21 years;
- B. for equipment or machinery, 11 years;
- C. for a combination of items A and B, a weighted average of those years will be used.

Subp. 6. Interest rate. The authority shall set interest rates at a negotiated rate that approximates the market rate of interest for securities of equivalent value at the time the bonds are initially sold.

Subp. 7. Security requirements. Financial assistance, either for real property or equipment, may be secured only with the best available security including one or more of the following:

- A. A mortgage or other adequate security as determined by the authority on the real property to be financed.
- B. A lien or other adequate security as determined by the authority on equipment to be financed by the authority.
- C. Other security as determined by the commissioner to have a value at least equal to the principal amount to be financed by the authority less the value, as determined by the authority, of the security provided in items A and B, if any. Other security shall be in a form and kind satisfactory to the authority and may consist of some or all of the following:
 - (1) a senior, junior, or parity lien on other assets of the applicant;
 - (2) a senior, junior, or parity lien on assets of certain owners, officers, and affiliated persons of the applicant (including sole proprietors and their spouses, partners and their spouses, and major shareholders or corporate officers and their spouses);
 - (3) a guarantee of owners, officers, and affiliated persons of the applicant (including sole proprietors and their spouses, partners and their spouses, and major shareholders or corporate officers and their spouses), or other related entities such as subsidiaries or parent corporations of the applicant; or
 - (4) additional forms of security, if necessary to strengthen the authority's collateral position on the financial assistance.
- D. In addition to or in substitution for any of the items A to C, any guarantee or other collateral or security, as required by insurers or other providers of collateral or security with respect to the bonds, other than the authority, or as required by the authority in accordance with generally accepted commercial lending practices.

8300.3023 DEBT SERVICE RESERVE FUND FOR SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.

In conjunction with each amount of financial assistance it extends, the authority shall establish and fund a debt service reserve fund sufficient to cover approximately 12 months' debt service or a lesser amount to ensure the tax exempt status of interest on the bonds if the bonds are intended to be tax exempt. The reserve must be funded through the proceeds of the bonds to be issued and sold in conjunction with each particular amount of financial assistance extended. The interest earned on the debt service reserve fund must accrue to the benefit of the applicant except to the extent necessary to ensure the tax exempt status of the interest on the bonds if the bonds are intended to be tax exempt. This amount must be applied to offset the principal and interest payments on an annual basis or to redeem bonds prior to maturity provided the financial assistance is current.

8300.3024 FINAL RESOLUTION FOR SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.

Subpart 1. Final resolution. After the authority passes a preliminary resolution, the authority may pass a final resolution that authorizes the issuance and sale of bonds to fund the financial assistance to the applicant, both as discussed in part 8300.3013, subpart 10. Whether the authority may pass the final resolution for an application under the program depends, in part, upon the following:

- A. a determination that there are no adverse changes in the financial condition or key personnel of the applicant since the date of completion of the application;
- B. market conditions;
- C. availability of bond issuance authority; and
- D. other conditions that the authority considers necessary in accordance with generally accepted commercial lending practices.

Subp. 2. Bond issuance. Upon passage of the final resolution, the authority shall commence to issue bonds in accordance with market conditions and the other legal conditions that govern the issuance of its bonds and notes. This issuance must be in accordance with the contents of any insurance contracts, agreements with lenders providing letters of credit, or other forms of financial assistance and other terms and conditions necessary to effectuate bond sale. Funds will not be disbursed at the loan closing until it has been determined by the commissioner that there are no adverse changes in the condition or key personnel of the business entity applying for the financial assistance in accordance with generally accepted commercial lending practices. After the bonds are issued and sold, there will be a loan closing at which the funds are transferred and documents are signed in accordance with the terms of the final resolution and the respective bond resolution.

POLLUTION CONTROL FINANCIAL ASSISTANCE**8300.3025 POLLUTION CONTROL FINANCIAL ASSISTANCE.**

An applicant for pollution control financial assistance shall submit to the commissioner an application form approved by the commissioner and shall comply with parts 8300.3011 to 8300.3013. The application processing and evaluation shall be in accordance with the act and parts 8300.3011 to 8300.3013, 8300.3025, and 8300.3026.

8300.3026 ACCEPTANCE OF POLLUTION CONTROL FINANCIAL ASSISTANCE APPLICATIONS.

In determining whether to accept applications for pollution control financial assistance, the authority shall examine the following facts:

- A. the probable eligibility of the pollution control financial assistance for a federal guarantee;
- B. the nature of the pollution control facilities to be financed with the financial assistance;
- C. the location of the proposed facilities;
- D. the availability of bonding authority under the act; and
- E. the extent to which the financial assistance will assist and encourage the establishment, maintenance, and growth of business in Minnesota and reduce to a manageable level the cost of the control of pollution and disposal of waste resulting from the operations of business.

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MINNESOTA FUND LOANS

8300.3030 PURPOSE FOR MINNESOTA FUND LOANS.

The Minnesota fund loan program issues business loans for fixed-asset financing for new and existing businesses. The authority shall make business loans for fixed asset financing for new and existing businesses from the Minnesota fund in compliance with the act, Minnesota Statutes, chapter 472, and parts 8300.3011 to 8300.3013 and 8300.3030 to 8300.3034. Under the act, Minnesota Statutes, section 472.11, subdivision 8, the local unit of government must pass and file a resolution in support for the project that stipulates the project's economic benefits to the local community.

8300.3031 ELIGIBILITY OF PROJECT FOR MINNESOTA FUND LOANS.

An applicant for financial assistance from the Minnesota fund established under Laws of Minnesota 1984, chapter 583, section 36, shall submit to the commissioner an application form approved by the authority. The amount applied for cannot exceed 20 percent of the eligible project costs, as defined in part 8300.3032. The applicant shall provide the commissioner with written verification that an amount at least equal to ten percent of the eligible project costs has been or will be committed by the applicant or local development agency to the project. The applicant shall provide the commissioner with a written commitment from the lender who provides the 70 percent financing. The project must meet the requirements of the act, Minnesota Statutes, chapter 472, and parts 8300.3011 to 8300.3013 and 8300.3030 to 8300.3034. If the money to be loaned is from a source other than the Minnesota fund, then the eligibility criteria required by the source will be imposed.

8300.3032 ELIGIBLE PROJECT COSTS FOR MINNESOTA FUND LOANS.

Eligible project costs for financing by the authority include the acquisition of land, buildings, or both land and buildings, site preparation, building construction or improvement, and architectural engineering, equipment, and machinery.

8300.3033 INTEREST RATE FOR MINNESOTA FUND LOANS.

The interest rate of financial assistance from the Minnesota fund is three percentage points below a full faith and credit obligation of the United States government of comparable maturity, at the time the financial assistance resolution is approved, or the authority shall set interest rates at a negotiated rate after reviewing market rates and comparable sources of financing available to the applicant at the time the financial assistance resolution is approved.

8300.3034 TERM OF FINANCIAL ASSISTANCE FOR MINNESOTA FUND LOANS.

The maximum term of financial assistance from the Minnesota fund is 20 years. The term of financial assistance will not exceed the maximum useful life of the project financed.

The commissioner may restructure the financial assistance at the request of the applicant or upon his or her own initiative if the commissioner determines that restructuring the financial assistance will increase the probability that the financial assistance will be repaid to the state.

If the applicant requests the commissioner to restructure the financial assistance and the financial assistance is restructured, the commissioner shall charge the applicant a fee in the amount of one-half percent on the outstanding principal amount of the financial assistance.

SPECIAL ASSISTANCE PROGRAM

8300.3039 PURPOSE OF SPECIAL ASSISTANCE.

The special assistance program provides financial assistance to businesses that are designated as being in need of special assistance.

8300.3040 PUBLIC PURPOSE.

To qualify for special assistance, an applicant shall submit an application on a form to be prepared by the commissioner. In addition, an applicant shall certify in writing that the special assistance will be used for the public purposes provided in Minnesota Statutes, section 116M.07, subdivision 11, paragraph (b).

8300.3041 FORM OF SPECIAL ASSISTANCE.

If an applicant requests special assistance in a form similar to that of the Small Business Development Loan Program, the applicant shall comply with parts 8300.3011 to 8300.3024 and 8300.3039 to 8300.3042, except the applicant need not comply with the requirement in part 8300.3022, subpart 3, and the application will be processed under parts 8300.3013 and 8300.3024.

If an applicant requests special assistance in a form other than that of the Small Business Development Loan Program, the applicant shall comply with parts 8300.3011 to 8300.3013 and 8300.3039 to 8300.3042, and the application evaluation will be performed in accordance with parts 8300.3013 and 8300.3039 to 8300.3042.

8300.3042 EXPENDITURES ELIGIBLE FOR SPECIAL ASSISTANCE.

Subpart 1. Eligible costs. Costs eligible for funding under the special assistance program are the expenditures set forth in the act, including but not limited to the following:

- A. land and/or building acquisition costs;
- B. site preparation;
- C. construction costs;
- D. engineering costs;
- E. equipment and/or machinery;
- F. bond issuance costs;
- G. underwriting or placement fees;
- H. trustee's fee;
- I. fees of guarantor, fees or insurance contracts, letters of credit, municipal bond insurance, and surety bonds;
- J. Small Business Administration processing and administration fee, if applicable;
- K. authority fee and administrative costs and expenses;
- L. certain contingency costs;
- M. interest costs during construction;
- N. legal fees, including those of authority's bond counsel; and
- O. short-term costs of conducting an eligible business.

Subp. 2. Maximum term. The maximum term of a loan made under the special assistance program may not exceed the average useful life of the collateral.

Subp. 3. Interest rate. The authority shall set interest rates at a negotiated rate after reviewing market rates and comparable sources of financing available to the applicant at the time the loan is made.

Subp. 4. Loan servicing. The commissioner shall monitor the payment of the principal and interest as set out in the amortization schedule. The commissioner shall also monitor the applicant's compliance with the terms and conditions of the loan contract.

The commissioner may restructure the loan at the request of the borrower or upon his or her own initiative if he or she determines that restructuring the loan will increase the probability that the loan will be repaid to the state.

If the applicant requests the commissioner to restructure the loan and the loan is restructured, the commissioner shall charge the applicant a fee in the amount of one-half percent on the outstanding principal amount of the loan.

REPEALER. Minnesota Rules, parts 8300.1000, 8300.1100, 8300.1200, 8300.1500, 8300.1600, 8300.1700, 8300.1800, 8300.1900, 8300.2000, 8300.2100, and 8300.2200, are repealed.

Department of Energy and Economic Development Energy Division

Proposed Rules Revising the Minnesota Energy Code

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, 715 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota on June 20, 1985, at 9:30 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 Howard L. Kaibel, Jr., Fourth Floor, Summit Bank Build-

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ing, 310 Fourth Avenue South, Minneapolis, Minnesota 55415 (phone 612/341-7608). The rule hearing procedure is governed by Minn. Stat. §§ 14.14-14.20, (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 amend the rules relating to Heat Loss, Illumination and Climate Control which are part of the State Building Code. Authority for adoption and amendment of these rules is contained in Minnesota Statutes § 116J.19 subd. 8, § 116J.03 and § 116J.10 (1984).

These rules apply to certain buildings in certain areas of Minnesota. The rules apply to buildings which are new at the time of application for a building permit, an addition or remodeled element of a building, a moved building, and an existing building heated by oil, gas, or electric units which is owned by the state, the University of Minnesota, a city, a county, or a school district. These rules apply to all buildings statewide except for:

1. Areas of non-metropolitan counties outside of municipalities which have, by referendum pursuant to Minn. Stat. 16B.72, exempted themselves from the state building code, or
2. Municipalities in non-metropolitan counties whose population is less than 2,500 and whose governing body has provided, pursuant to Minn. Stat. 16B.73 that the state building code will not apply within the jurisdiction of the municipality, or
3. Municipalities which, on June 3, 1977, had not adopted the state building code and have not since adopted the state building code.

The proposed rules, if adopted, would amend the state building code as it pertains to heat loss, illumination and climate control. The amendments would change requirements for vapor barrier materials, vapor barrier installation, and foundation wall insulation in residential buildings three stories or less in height. The amendments would also change requirements for air leakage for all buildings.

The proposed rules, if adopted, would amend Minn. Rules chapter 4215, which took effect January 1, 1984. Copies of Chapter 4215 may be purchased from the Minnesota Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155. Chapter 4215 may be viewed at the Minnesota State Law Library and the Minnesota Department of Energy and Economic Development Library.

Notice: The proposed rules may be modified as a result of the rules hearing process. The Agency therefore strongly urges those who may be affected in any manner by the substance of the proposed rules to participate in the rules hearing process directly or by representative.

Notice is hereby given that a statement of need and reasonableness is now available for review at the Department of Energy and Economic Development and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the agency anticipates presenting 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 reviewed at the Department of Energy and Economic Development or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Pursuant to Minn. Stat. § 14.115 (1984) the impact on small business has been considered in the adoption of the rules. The rules, if adopted, will have an impact on small business. 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. Comments received during the comment period shall be available for review at the Office of Administrative Hearings. 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 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 Energy and Economic Development may not take any final action on the rules for a period of five working days. 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. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Minnesota Department of Energy and Economic Development at any time prior to the filing of the rules 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 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 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 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.

Minn. Stat. ch. 10A provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone 612/296-5615.

One free copy of this notice and the proposed rules may be obtained by contacting Bruce D. Nelson, Senior Engineer, Department of Energy and Economic Development, 900 American Center Building, 150 E. Kellogg Boulevard, St. Paul, Minnesota 55101 (phone: 612-296-8279). Additional copies will be available at the door on the date of the hearing.

Mark B. Dayton
Commissioner

Rules as Proposed

4215.1400 AMENDMENT TO SECTION 201: VAPOR BARRIER.

On page 10 of the code, section 201 is amended by adding a new definition to read:

VAPOR BARRIER. A material to retard air and water vapor passage ~~with~~ designed to meet a maximum perm rating of ~~0.4~~ 1.0 grain per ft² per inch Hg pressure differential. Polyethelene material that is not cross-laminated which is used to meet the requirements of this paragraph must be designed to have a minimum thickness of four mills.

4215.2100 AMENDMENT TO 502.2.1: FOUNDATION WALLS.

On page 19 of the code, 502.2.1 is amended by adding a paragraph to read:

502.2.1.6 Foundation walls. ~~If floors are not insulated as required in Section 502, basement or crawl space~~ Foundation walls enclosing heated or conditioned spaces must be insulated. For walls enclosing heated spaces, the opaque foundation wall must have a maximum thermal transmittance (U_o) value of 0.25 from the top of the wall to 24 inches below finished grade.

For walls enclosing conditioned spaces, either the thermal resistance (R) transmittance (U_o) of the insulation on the entire opaque foundation wall must be not less greater than ~~$R=5$~~ 0.158, or the thermal resistance (R) transmittance (U_o) of the insulation on the opaque foundation wall must be not less greater than ~~$R=10$~~ 0.088 from the top of the wall down to the design frost line. If the top of the footing is at or above the design frost line, the thermal transmittance of the opaque foundation wall must not be greater than 0.158 from the top of the wall to the top of the footing.

All insulation used in or on foundation walls must be approved for the intended use. The insulation must be installed in accordance with the approved manufacturer's specifications.

4215.2200 AMENDMENT TO 502.2.1: VAPOR BARRIERS.

On page 19 of the code, 502.2.1 is amended by adding a paragraph to read:

502.2.1.7 Vapor barriers. ~~The design of buildings for energy conservation may not create conditions of accelerated deterioration from moisture~~ Vapor barriers are required to maintain the thermal performance of required insulation and the integrity of building materials against cold weather water vapor condensation. A vapor barrier must be installed between the interior surface and the winter design condition dew point location within each building envelope surface. The vapor barrier must be continuous with all joints overlapped and made over framing members or blocking. ~~The vapor barrier must be continuous and uninterrupted by framing at~~

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dropped ceiling areas of bath and kitchen soffits. Rips and punctures in the vapor barrier must be patched with vapor barrier materials and sealed. The vapor barrier need not be continuous at electrical, mechanical, or plumbing penetrations.

~~EXCEPTIONS: The A vapor barrier at need not be installed on the rim joist need not be continuous. The vapor barrier need not be sealed around electrical junction boxes insulation.~~

Note: An air-vapor barrier may create conditions of low natural infiltration. Installation of a heat recovery ventilation system or an efficient ventilation system must be considered to avoid excessive humidity and other air contaminants.

4215.2450 AMENDMENT TO 502.4.3.

On page 23 of the code, 502.4.3 is amended as follows:

502.4.3.1 Exterior joints in the building envelope that are sources of air leakage, such as around window and door frames, between wall cavities and window or door frames, between walls and foundations, between walls and roofs or ceilings and between wall panels, openings at penetrations of utility services through walls, floors, and roofs, and all other similar openings in the building envelope must be caulked, gasketed, or otherwise sealed in an approved manner. A continuous air barrier must be provided at all electrical, mechanical, and plumbing penetrations.

4215.2750 AMENDMENT TO 503.4.5.1.

On page 27 of the code, section 503.4.5.1 is amended to read:

These requirements apply to, but are not limited to, unitary (central) cooling equipment (air cooled, water cooled, and evaporatively cooled), the cooling mode of unitary (central) and packaged terminal heat pumps (air source and water source), and packaged terminal air conditioners.

4215.4700 AMENDMENT TO 602.2.6.

On page 45 of the code, 602.2 is amended by adding a paragraph to read:

602.2.6 Foundation walls. If floors of Group R buildings are not insulated as required in Section 602.2, basement or crawl space Foundation walls enclosing heated or conditioned spaces in Group R buildings must be insulated as required in Section 502.2.1.7 502.2.1.6.

4215.4901 AMENDMENT TO 603.1.

On page 45 of the code, section 603.1 is amended to read:

HVAC devices, components, and their elements must conform to the requirements of this section.

Systems other than combustion heating equipment and unitary cooling and heating equipment regulated from a single point of control must be designed in accordance with the requirements of chapter 5 of this code.

System heating and cooling capacity must meet the requirements of section 503.2.3 of the code.

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 Relating to Employment; Summer Youth Jobs

The rules proposed and published at *State Register*, Volume 9, Number 35, pages 1924-1927, February 25, 1985 (9 S.R. 1924) are adopted as proposed.

Department of Energy and Economic Development Small Business Finance Agency

Adopted Emergency Rules Relating to Tourism Loan Program

The rules proposed and published at *State Register*, Volume 9, Number 37, pages 1996-2000, March 11, 1985 (9 S.R. 1996) are adopted as proposed.

Racing Commission

Adopted Rules Relating to Horse Racing

The rules proposed and published at *State Register*, Volume 9, Number 26, pages 1411-1477, December 24, 1984 (9 S.R. 1411) and Volume 9, Number 27, pages 1513-1515, December 31, 1984 (9 S.R. 1513) are adopted with the following modifications:

Rules as Adopted

7870.0500 CONTRACT APPROVAL.

Subpart 1. Contracts and subcontracts subject to prior commission approval. Contracts entered into, renewed, or extended by Class A, B, and D licensees and their contractors for goods and services are subject to prior approval by the commission. ~~Contracts and subcontracts~~ must include affirmative action plans establishing goals and timetables consistent with Minnesota Statutes, chapter 363. All Class A, B, and D licensees must submit ~~copies of any written contracts and subcontracts to the commission. No contract or subcontract is valid, nor are as soon as practicable to the commission the name and the address of the contractor or subcontractor, amount and duration of the contract or subcontract, and a description of the good or service provided. The commission shall determine whether the contract or subcontract may affect the integrity of pari-mutuel racing, and the commission shall notify the licensee whether the commission intends to review and approve or disapprove the contract or subcontract. In making a determination that a contract or subcontract may affect the integrity of racing, the commission shall consider the amount and duration; the extent to which the contractor or subcontractor will be on the premises of the licensee; the relationship of the contract or subcontract to security; opportunity for contact between the contractor or subcontractor and horses, horsepersons, or patrons; opportunity for the contractor or subcontractor to influence the management and conduct of pari-mutuel racing; contact with admission, pari-mutuel, concession, or purse money; and whether the commission has reason to believe that the contractor or subcontractor is incompetent, financially irresponsible, or not of good character. If notified of the commission's intention to review and approve or disapprove a contract or subcontract, the licensee shall promptly submit to the commission copies of any written contracts or subcontracts as well as any documentation, records, or information the commission may request with regard to the contract. If the commission notifies a licensee of the commission's intention to review and approve or disapprove a contract or subcontract, the contract or subcontract is not valid, nor is either of the parties bound by the contract until it has been approved by the commission. The commission shall approve or disapprove contracts and subcontracts within 30 days, as computed pursuant to Minnesota Statutes, section 645.15, after submission.~~

Subp. 2. Waiver of review. ~~The commission, by application of the criteria in subpart 1 to contract information received, may determine that contracts and subcontracts of certain types, amounts, or durations will not affect the integrity of pari-mutuel racing and need not be reviewed. If the commission so concludes, it shall give written notice to affected licensees of the types, amounts, or durations of contracts and subcontracts which will not be reviewed and affected licensees need not thereafter submit the information required in subpart 1 for those contracts or subcontracts. The commission, at any time, may by written notice to affected licensees, rescind its decision not to review contracts and subcontracts of certain types, amounts, or durations and require submission of the information required in subpart 1 if it determines that the integrity of pari-mutuel racing is affected.~~

Subp. 3. Information required. ~~If a the commission notifies a licensee of its intention to review and approve or disapprove a contract or subcontract, and the contract or subcontract is in an amount more than \$50,000 or of a duration longer than 30 days, a Class A, B, or D licensee also must submit to the commission:~~

F. The signature, name, address, and title of an individual providing the information. The licensee must make its best

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effort to notify the commission promptly of any change in the information required by items A ~~to~~, B, C, E, and F before performance is completed.

Subp. ~~3~~ 4. Basis for commission approval. The commission shall approve the contract or subcontract if it determines that approval will not adversely affect racing or the public interest, is in accordance with applicable laws and rules, and will not adversely affect the public health, safety, and welfare. In making that determination, the commission must consider the contractor or subcontractor's competence, experience, reputation, record of law abidance, and financial responsibility.

Subp. ~~4~~ 5. Rescission of approval. The commission, after notice and an opportunity to be heard, may rescind its approval of a contract or subcontract during its performance if the commission determines that the contractor or subcontractor no longer meets the criteria in subpart ~~3~~ 4.

Subp. ~~5~~ 6. Economic opportunities for racial minorities. Class A and B licensees are required, to the extent feasible, to establish the following goals to assist in providing economic opportunities for racial minorities:

B. establish a minimum goal of ten percent for hiring racial minorities in all job categories of the licensee's postconstruction workforce, including clerical, laborers, officials and managers, professionals, technicians, and salesworkers, and make a good faith effort to achieve this goal within two years of commencing racing operations;

Subp. ~~6~~ 7. Economic opportunities for women. Class A and B licensees also are required, to the extent feasible, to establish the following goals to assist in providing economic opportunities for women:

B. establish a minimum goal of 51.4 percent for hiring women in all job categories of all the licensee's postconstruction workforce, including clerical, laborers, officials and managers, professionals, technicians, and salesworkers, and make a good faith effort to achieve this goal within two years of commencing racing operations;

C. establish a minimum goal of 15 percent of its total vendor, supplier, or other contracts with women business enterprises for the postconstruction period, and make a good faith effort to achieve this goal within two years after completion of the initial construction; and

Subp. ~~7~~ 8. Economic opportunities for disabled. Class A and B licensees are required, to the extent feasible, to establish reasonable goals to assist in providing economic opportunities for disabled individuals. These affirmative action goals must be set with respect to the Class A and B licensees' construction subcontracts/material suppliers during facility construction, on-site construction jobs, postconstruction labor force, postconstruction vendor, supplier and other contracts, and available equity ownership opportunities.

Subp. ~~8~~ 9. Compliance reports. Class A and B licensees are required to file ~~semiannual~~ quarterly reports with the commission demonstrating compliance with the requirements of this part on forms provided by the commission.

Subp. ~~9~~ 10. Definitions. For the purpose of this part, the following words have the following meaning:

B. "Good faith effort" means a reasonable effort to accomplish goals and timetables.

C. "Minority business enterprise" is a business owned and controlled by minority individuals ~~and is a small business concern~~ (1) which is at least 51 percent owned by one or more minority individuals or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more minority individuals, and (2) whose management and daily business operations are controlled by one or more of such individuals.

D. "Owned and controlled" means a business with at least 51 percent of the economic beneficial interest, at least 51 percent of the voting interest, and whose management and daily business operation are legitimately held by a person (or persons in any combination) who is a racial minority or woman.

E. "Racial minority" means:

F. "Women owned business enterprise" is a business owned and controlled by women ~~and is a small business concern~~ (1) which is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women, and (2) whose management and daily business operations are controlled by one or more of such individuals.

7869.0100 DEFINITIONS.

Subp. 5. Allowance. "Allowance" means a specified amount of weight that may be subtracted from a ~~horse~~ horse's starting weight based upon that horse's past performance, money won, ~~or sex,~~ or apprentice jockey as they relate to the conditions of a race.

Subp. 24. Entry. "Entry" means, according to its context, either:

C. two or more horses that are entered in a race and are owned in whole or in part by the same owner, or are trained by a trainer who owns any interest in any of the other horses in the race, and which are coupled for wagering purposes.

Subp. 26. Field. "Field" means, according to its context, either:

Subp. 28. Foul. "Foul" means any action by a horse ~~or~~, jockey, or driver which interferes with another horse ~~or~~, jockey, or driver in the running of a race.

Subp. 29. Gait. "Gait" means any of the ways a horse may move by lifting the feet in different order or rhythm, and specifically in harness racing, trotting, or pacing.

Subp. 31. Heat. "Heat" means one of a number of ~~aces~~ events to determine the ultimate winner of ~~an event~~ a race.

Subp. 34. Maiden. "Maiden" means a horse which at the time of starting has never won a race, on the flat in any country on a recognized racetrack, or that has been disqualified after finishing first.

Subp. 38. Nominating fee. "Nominating fee" means an amount set by the association which must be paid in order to make a horse eligible for a stakes race.

Subp. 40. Nominator. "Nominator" means the person in whose name a horse is nominated for a stakes race or handicap race.

Subp. 48. Program. "Program" means, according to its context, either:

A. an entire ~~days~~ day's racing schedule; or

Subp. 51. Race. "Race" means a contest among horses for purse, stakes, premium, or wager for money, run in the presence of racing officials of the association and the commission. The following are categories of races:

D. "Handicap race" means:

(1) in thoroughbred ~~and~~ or quarter horse racing a race in which weights to be carried by the entered horses are adjusted by a handicapper for the purpose of equalizing their respective chances of winning; or

(2) in harness racing the assignment of post positions of entered horses for the purpose of equalizing their respective chances of winning.

E. "Invitational race" means a race restricted to horses asked to race by the ~~racing secretary~~ association.

L. "Restricted race" means a race required pursuant to Minnesota Statutes, section 240.29.

M. "Stakes ~~aces~~ race" or "sweepstakes race" means a race to which nominators of the engaged entries contribute to a purse, and to which money or any other award may be added. No overnight race, regardless of its conditions, may be deemed a stakes race.

Subp. 59. Starter. "Starter" means, according to its context, either:

Subp. 61. Starting fee. "Starting fee" means a ~~charge~~ an amount, specified by the conditions of the race and set by the association, that must be paid in order to start in a race.

Subp. 62. Stewards' list. "Stewards' list" means a tabulation ~~of horses~~ compiled by the stewards of horses ~~who~~ that are ineligible to race due to poor performance, ownership by a suspended or nonlicensed person, or for other reasons that might affect the integrity or welfare of racing.

Subp. 66. Totalizator. "Totalizator" means the system by which all pari-mutuel activity including selling and cashing of tickets, calculation of odds and payoffs, and displaying of pari-mutuel information is accomplished.

7872.0100 APPLICATION FOR RACING DAYS.

Subp. 2. Disposition of racing days requests. The commission must act on a request for assignment of racing days pursuant to the following procedures:

A. Upon receipt of an application, the commission shall send written notice of the application to all persons registered with the commission for the purpose of notification of ~~rulemaking proceedings~~ or assignments of racing days and all other Class B and D licensees. The notice must include a brief description of the request, a statement that all persons wishing to comment may do so in writing within 20 days after issuance of the notice, the time and place of a public hearing on the application, and the earliest and latest date on which the commission may act.

F. Within 30 days after action on an application, the commission shall submit in writing to the applicant and persons who submitted written comments the reasons ~~why the commission approved or denied the request~~ for its action.

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ADOPTED RULES

7872.0110 ASSIGNMENT OF RACING DAYS.

Subp. 2. Basis for assignment of racing days. When considering a request for assignment of racing days, the ~~commissioner~~ commission must consider the success and integrity of racing; the public health, safety, and welfare; public interest, necessity, and convenience; as well as the following factors:

7873.0100 APPLICATION FOR PARI-MUTUEL POOLS.

Subpart 1. Submission of pari-mutuel requests. A Class B or D licensee may apply for approval of a pari-mutuel ~~pool~~ pools by submitting an original and 15 copies of the following:

- A. a signed request for approval of pari-mutuel ~~pool~~ pools;
- B. a statement of the precise nature and extent of the ~~pool~~ pools requested, including type of betting and placement in racing programs;
- C. a detailed statement of how the request meets each of the criteria in part 7873.0110, subpart ~~1~~ 2; and

Subp. 2. Disposition of requests. The commission must act on a request for approval of a pari-mutuel ~~pool~~ pools pursuant to the following procedures:

A. Upon receipt of an application, the commission shall send written notice of the application to all persons registered with the commission for the purpose of notification of ~~rulemaking proceedings~~ or approval of pari-mutuel pools, and all other Class B and D licensees. The notice must include a brief description of the request, a statement that all persons wishing to comment may do so in writing within 20 days after issuance of the notice, the time and place of any public hearing on the application, and the earliest and latest date on which the commission may act.

~~B. The commission may conduct a public hearing on the request no sooner than 25 nor later than 30 days after an application is filed. The commission shall issue a press release no later than five days after an application is filed announcing the filing and the time and place of any public hearing.~~

~~C. B.~~ If, after an application is filed, the commission determines that additional information from the applicant is necessary to fully consider the request, the commission shall direct the applicant to submit the additional data.

~~D. C.~~ If the commission further determines it necessary to fully understand an application, the commission shall request the applicant or a person submitting comments to appear before the commission. The commission shall request the appearance in writing at least five days in advance.

~~E. D.~~ If an applicant fails to comply with subpart 1 and this subpart, the commission shall deny the request.

~~F. E.~~ The commission shall approve ~~or~~ deny, or give its qualified approval to an application for approval of a pari-mutuel ~~pool~~ pools not sooner than 30 nor later than 45 days after filing of the application.

~~G. F.~~ Within 30 days after action on an application, the commission shall submit in writing to the applicant and persons who submitted written comments the reasons ~~why the commission approved or denied the request~~ for its action.

7873.0110 APPROVAL OF PARI-MUTUEL POOLS.

Subpart 1. Request. Upon written request of a Class B or D licensee, or on its own motion, the commission may approve pari-mutuel pools, including types of betting, number and placement of ~~exotics~~ multiple pools in racing programs, and other issues related to pari-mutuel pools which promote the purposes of Minnesota Statutes, chapter 240, and the rules of the commission.

7873.0140 FAILURE TO START.

In the event of horses failing to start, the following shall apply:

C. If fewer than two horses leave the stalls, the entire amount wagered ~~to~~ in the win, place, and show pools shall be promptly refunded.

7873.0170 QUINELLA.

Subpart 1. Scope. The winning quinella combination shall be the first two horses of separate betting interests to finish the race. The order in which the horses finish is immaterial. All tickets on the quinella must be calculated in an entirely separate pool.

7873.0180 PERFECTA OR EXACTA.

Subpart 1. Scope. A perfecta or exacta wager combines two horses of separate betting interests in a single race, selecting the horse which will finish first and the horse which will finish second in that race in the official order of finish. All perfecta or exacta wagers must be calculated in a separate pool.

7873.0190 PICK SIX.

Subp. 5. Coupled entries and fields. Those horses constituting an entry of coupled horses, or those horses coupled to constitute

the mutuel field in a race comprising the pick six, shall race as a single wagering interest for the purpose of the pick six pari-mutuel pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race the entry of or the field selection shall remain as the designated selection to win in that race for the pick six calculation and the selection shall not be deemed a scratch.

Subp. 6. Calculation of pool. The pick six pari-mutuel pool shall be calculated as follows:

C. Should no distribution be made pursuant to item A on the last day of the association's meeting, then the entire distributable pool and all money accumulated in the pool shall be distributed to the holders of tickets correctly designating the most winning selections of the six races comprising the pick six for that day. If, for any reason, the final day of racing is canceled and the pick six pool has not been distributed, the pool shall be escrowed by the association, and the pool, as well as all accrued interest, shall be carried over and included in the pick six pari-mutuel pool for the next succeeding racing date of the same breed as an additional net amount to be distributed.

Subp. 10. No pick six ticket to be exchanged or canceled. No pari-mutuel ticket for the pick six pool shall be sold, exchanged, or canceled after the time of the closing of wagering in the first of the six races comprising the pick six, except for the refunds on pick six tickets as required by this part, and no person shall disclose the number of tickets sold in the pick six pool or the number or amount of tickets selecting winners of pick six ~~each day to be official~~ until such time as the stewards have declared "official" the last race comprising the pick six.

7873.0240 TIP SHEETS.

Subp. 2. Previous day's sheet to be posted. The previous race day's tip ~~sheet sheets~~ and its their outcome must be displayed in a conspicuous place within the grandstand area of the racetrack for inspection by patrons.

7873.0300 SIMULCAST WAGERING.

Subpart 1. Request. Upon written request of a Class B or Class D licensee (~~association~~), the commission ~~may~~ shall approve wagering on races televised to Minnesota from another licensed racing jurisdiction. The request must be made not less than seven days prior to the race to be televised. The request must be accompanied by a signed reciprocal agreement among the racetrack originating (hosting) the broadcast, the association representing the horsepersons at the host track, the Minnesota racetrack receiving the broadcast, and the association representing the horsepersons at the Minnesota racetrack receiving the broadcast.

Subp. 2. Approval. All approved simulcast races must be conducted at the licensed racetrack on a racing day assigned to an association by the commission. Racing must be conducted on that racing day ~~pursuant to~~ as defined by Minnesota Statutes, section 240.14 240.01, subdivision 10.

7873.0400 TELEPHONE ACCOUNT WAGERING.

Subpart 1. Request. Upon written request of a Class B or Class D licensee (~~association~~), the commission may approve telephone account wagering to be conducted on the premises of a licensed racetrack. The request must show how the telephone account wagering system will promote the success and integrity of racing, public interest, necessity, and convenience; and the impact on the economic viability of the applicant racetrack and all other racetracks licensed by the commission, including impact on pari-mutuel handle.

7875.0100 FACILITIES.

Subpart 1. Facilities. Each association must include a receiving barn, detention facility, paddock, room for jockeys and drivers, lighting, ~~stabling~~ stabling, restrooms, medical facilities, racing officials' space, viewing room, commission office and parking space, space for the Bureau of Criminal Apprehension, and complaint desk ~~which~~. The facilities must meet the needs of patrons, officials, horsepersons, other persons on the premises, and horses.

Subp. 3. Reports. No later than 30 days before the first day of any race meeting, the association shall submit to the commission the most recent inspection reports issued by governmental authorities regarding the condition of facilities, sanitation, and fire prevention, detection, and suppression.

Subp. 4. Racing surfaces. ~~The association conducting the first thoroughbred and harness meetings of the year at a racetrack must.~~ Within seven days after ~~the a~~ a race meeting commences, the association must submit to the commission evidence that the construction, elevation, and composition of racing and training surfaces have received engineering and veterinarian approval as safe and humane.

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ADOPTED RULES

7875.0200 EQUIPMENT.

Subp. 9. External communications. An association may have telephone or telegraph systems on the premises during a race meeting for the benefit of the public press or for transacting ordinary business, but no information regarding the results of any race shall be transmitted out of the racetrack until the results are official, nor shall any message be sent over said wires transmitting money, or other things of value, or directing the placing of any wager on the result of a race except as permitted by part 7873.0400.

7876.0110 OFF-TRACK STABLING.

Subp. 3. Horses must be at racetrack by scratch time. All horses shipped from another racetrack ~~of~~ or off-track stabling facility to a racetrack for a race must be at the racetrack before scratch time for that race.

7877.0110 PROCEDURE FOR OBTAINING CLASS C LICENSE.

Subp. 2. Application content. An application for a Class C license shall include the following information with respect to the applicant:

~~E.~~ E. names, and addresses, and telephone numbers of previous employers;

~~F.~~ F. educational background;

~~G.~~ a signed statement authorizing the release of information to the commission and the Minnesota Bureau of Criminal Apprehension; and

~~H.~~ G. two completed FBI fingerprint cards.

Subp. 4. Racing officials. Each association shall submit to the commission for its approval or disapproval the names of all persons whom the association has selected as racing officials, and other employees whose duties relate to the actual running of races. The list shall include, where applicable, the following racing officials:

~~E.~~ clerk of scales (thoroughbred or quarter horse);

~~F.~~ clocker (thoroughbred or quarter horse);

7877.0120 FEES.

Subpart 1. License fees. Each application for a Class C license, or its renewal, shall be accompanied by the payment of an annual fee according to the following schedule:

~~D.~~ D. ~~concessionaire~~ concession/vendor employee, \$10;

~~I.~~ groom/hotwalker, \$5;

~~K.~~ hotwalker, \$5;

~~L.~~ jockey, \$25;

~~M.~~ L. jockey agent, \$25;

~~N.~~ M. jockey, apprentice, \$25;

~~O.~~ N. owner, individual, \$25;

~~P.~~ O. owner, multiple, \$100;

~~Q.~~ P. owner/trainer/driver, \$25;

~~R.~~ Q. pari-mutuel clerk, \$10;

~~S.~~ pharmaceutical representative, \$100;

~~T.~~ photo finish operator, \$100;

~~U.~~ photographer, track, \$100;

~~V.~~ R. pony rider, \$10;

~~W.~~ S. racing official, \$25;

~~X.~~ T. stable foreman, \$5;

~~Y.~~ U. trainer, \$25;

~~Z.~~ V. trainer, assistant, \$15;

~~AA.~~ totalisator owner, \$100;

~~BB.~~ W. valet, \$5;

~~CC.~~ X. veterinarian, \$100;

~~DD~~ Y. veterinary assistant, \$25; and

~~EE~~ Z. others, \$10.

Subp. 2. Fingerprint charge. In addition to the license fee in subpart 1, each initial application for a Class C license, and each renewal application every third year thereafter, shall be accompanied by two completed FBI fingerprint cards taken by the commission and a properly executed certified check, cashier's check, or money order in the amount of \$12 payable to "Federal Bureau of Investigation." Any horse owner who does not make application in person must meet all requirements of this subpart, except that the owner may file two completed fingerprint cards taken by a law enforcement agency.

Subp. 3. Jockey mount fees. Except as otherwise specially agreed by the parties, the fees to be paid jockeys shall be according to the following fee scale:

Purse	Winning Mount	Second Mount	Third Mount	Losing Mount Other Mounts
\$400 <u>\$499</u> and Under	\$27	\$19	\$17	\$16
500-599	30	20	17	16
600-699	36	22	17	16
700- 900 <u>999</u>	(10% of win purse	25	22	20
1,000- 1,400 <u>1,499</u>	10% of win purse	30	25	22
1,500- 1,900 <u>1,999</u>	10% of win purse	35	30	28
2,000- 3,400 <u>3,499</u>	10% of win purse	45	35	33
3,500- 4,900 <u>4,999</u>	10% of win purse	55	45	35
5,000- 9,900 <u>9,999</u>	10% of win purse	65	50	40
10,000- 14,900 <u>14,999</u>	10% of win purse	5% of place purse	5% of show purse	45
15,000- 24,900 <u>24,999</u>	10% of win purse	5% of place purse	5% of show purse	50
25,000- 49,900 <u>49,999</u>	10% of win purse	5% of place purse	5% of show purse	60
50,000 and up <u>99,999</u>	10% of win purse	5% of place purse	5% of show purse	75
100,000 and up	10% of win purse	5% of place purse	5% of show purse	100

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ADOPTED RULES

Subp. 4. Driver's fee. In the absence of a contract or special agreement, drivers' fees shall be \$20 or five percent of the purse earned, whichever is greater.

D. If no contract or written agreement is submitted to the horsepersons' bookkeeper prior to the running of the race in question, the horseperson's bookkeeper shall debit the owner's purse account in accordance with the ~~fee scale in subpart 2~~ applicable fees found in this subpart.

7877.0125 CRITERIA FOR DETERMINING ELIGIBILITY.

Subpart 1. Age. An applicant for a Class C license, except an individual owner's license, shall be at least 14 years of age unless an older age is required by statute or rule; however Class C licensees who work in proximity to horses shall be at least 16 years of age.

7877.0130 STANDARDS REQUIRED OF APPLICANTS FOR SPECIFIC LICENSES.

Subp. 2. Multiple owners. Applicants for a multiple owner's license must comply with the following requirements.

C. Individuals or entities required by items A and B to obtain a Class C license must make their best effort, as defined in part 7870.0030, ~~subpart 2,~~ item E, to disclose to the commission in writing at the time of each Class C license application and renewal request, any interest in a race horse other than horses owned or leased by the multiple owner, and any agreement or understanding entered into regarding the racing of horses owned or leased by the multiple owner or the distribution of the benefits of racing the horses.

D. A multiple owner must make its best effort, as defined in part 7870.0030, ~~subpart 2,~~ item E, to disclose to the commission in writing at the time of each Class C license application and renewal request, the nature and extent of every direct or indirect record ~~or~~ of beneficial ownership or other voting interest or control, whether absolute or contingent, in the multiple owner. The disclosure shall include the names and addresses of every individual and other entity. The individuals ~~an~~ and other entities identified, except those required to be licensed pursuant to item B, shall not be licensed and shall not have access to restricted areas at racetracks.

Subp. 3. Trainers and assistant trainers. Applicants for a trainer's or assistant trainer's license must comply with the following requirements.

B. Any person applying for the first time in Minnesota for a trainer's or assistant trainer's license shall submit to the examination required of prospective trainers and assistant trainers under subpart 4, items B and C unless the applicant has been licensed as a trainer or assistant trainer in another racing jurisdiction for at least the two preceding years, and meets the criteria in part 7877.0100, subpart 2.

Subp. 6. Apprentice jockeys. Applicants for an apprentice jockey's license must comply with the following requirements.

B. The applicant must have been licensed previously by the commission or another racing jurisdiction as an apprentice jockey or as an exercise rider, or have acquired comparable experience at a training facility or farm. If licensed as an exercise rider or acquired comparable experience, an applicant must demonstrate the ability to break a horse from a starting gate in company with other horses under the observation of a starter and, thereafter, ~~demonstrate to the stewards his or her ability to ride competitively~~ in at least two races under the observation of the stewards.

F. An apprentice jockey shall race under certificate issued by the commission in accordance with the standards in part 7877.0170, subpart 3, item ~~B~~ A.

7877.0135 DUAL LICENSING.

In determining whether to issue more than one Class C license to an applicant, the commission shall consider the nature of the licenses sought or already held, and whether holding multiple licenses would be a conflict of interest.

~~B. In addition to the prohibitions of item C, a person licensed as an owner may not be licensed as a jockey agent, nor may any person licensed as a jockey agent be licensed as an owner.~~

~~C. No racing official may serve or act in another capacity at a race meeting at which he or she is licensed as an official.~~

C. In addition to the prohibitions of item B, a person licensed as an owner may not be licensed as a jockey agent, nor may any person licensed as a jockey agent be licensed as an owner.

7877.0140 TEMPORARY LICENSE.

Subpart 1. Issuance. Pending completion of an investigation of qualifications and fitness, and a decision by the commission to issue or deny a Class C license, the commission may grant a temporary license to a person who has filed a complete and sufficient application for a Class C license and paid all applicable fees, which are nonrefundable. A temporary license must be granted if:

Subp. 2. Termination. A temporary license shall carry no presumption of qualifications or fitness and may be terminated summarily by the commission for cause.

A temporary license shall terminate upon a decision of the commission to issue or deny a Class C license, or ~~420~~ 60 days after the grant of the temporary license, whichever occurs first.

~~In the event of termination of a temporary license, the Class C license fee shall be forfeited.~~

7877.0155 CONDITIONS PRECEDENT TO LICENSING.

Acceptance of a Class C license, including a temporary or emergency license, shall mean that the licensee consents and agrees to the following conditions:

E. The licensee will submit to inspections and searches as hereinafter provided:

(1) When investigating for violations of law or rules upon ~~racetrack~~ the grounds or at any location where horses eligible to race at a Minnesota race meeting are kept of an association, the commission or the stewards may designate the Minnesota Bureau of Criminal Apprehension or another appropriate law enforcement agency as having authority to conduct searches of any Class C licensee, or any employee or agent of a Class A ~~or Class B₁ or D~~ licensee under the commission's jurisdiction. This authority shall extend to searches and inspections of persons and personal effects in and about racetrack grounds ~~or at locations where horses eligible to race are kept~~.

7877.0170 DUTIES AND RESPONSIBILITIES OF CLASS C LICENSEES.

Subpart 1. Owners. Horse owners shall have the following responsibilities:

D. Racing colors must be registered with the commission when filing an application for an owner's license ~~and upon payment of~~. A \$10 annual fee must accompany the registration. Authority for the use of racing colors must be sanctioned by the commission. Racing colors may not bear any advertising. Any difference between owners to the rights of particular colors shall be decided by the stewards. The registered colors of an owner may not be registered by another, except after five years of nonuse or abandonment by the original owner. Any temporary change from the registered colors of the owner must receive the prior approval of the stewards.

E. A licensed owner may register a stable name with the commission by filing an application on a form prescribed by the commission and paying a \$50 annual fee. ~~No person may be registered under more than one stable name at the same time.~~ No person may use the real name of any owner of race horses as a stable name. No stable name registration may be used for advertising purposes. A stable name which has already been registered may not be registered by another owner.

(4) ~~No owner may use his or her real name for racing purposes if he or she has a registered stable name, except with approval of the commission.~~

Subp. 2. Trainers. Trainers shall have the following responsibilities.

C. A trainer shall be responsible for horses he or she enters as to eligibility; weight or other allowances claimed; physical fitness of the horse to perform credibly at the distance entered; absence of prohibited medication; proper shoeing, bandaging, and equipment; and timely arrival in the paddock.

(2) ~~The trainer will be held responsible for~~ commission shall consider any positive test sample to be prima facie evidence that the trainer is responsible for such positive test sample unless he or she can show by substantial evidence that neither the trainer nor any employee or agent of the trainer was responsible for the administration of the medication.

E. A trainer must register each horse in his or her charge within 24 hours of the horse's arrival ~~at the racetrack on the grounds of an association~~ by completing forms provided by the racing secretary. At the same time, any trainer of thoroughbred or quarter horses must submit with that registration a description of the owner's colors for each horse in his or her charge.

F. Each trainer must provide a list of all persons in his or her employ to the commission and must ensure that those persons are licensed by the commission no later than the next racing day after those employees arrive ~~at the racetrack on the grounds of an association~~. Upon discharge of an employee, the trainer shall report that fact to the commission's licensing office by no later than the end of that racing day.

K. A thoroughbred or quarter horse trainer shall personally attend his or her horses in the paddock, and shall supervise his or her horses' preparation to race, unless excused by the stewards because of illness or other emergency.

P. A trainer must promptly report the death of any horse in his or her care ~~at a licensed racetrack on the grounds of an association~~ to the commission veterinarian and must comply with part 7891.0110 governing post-mortem examinations.

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ADOPTED RULES

Subp. 3. Jockeys and apprentice jockeys. Jockeys and apprentice jockeys shall have the following responsibilities.

H. No jockey may weigh-out if he or she is more than ~~seven~~ two pounds over the weight assigned to his or her horse without permission of the owner or trainer, and under no circumstances shall the overweight exceed seven pounds.

N. In any race, a jockey ~~shall~~ must ride to win or to finish as near as possible to first. A jockey shall not ease his or her horse without cause, even if the horse has no apparent chance to earn a portion of the purse.

O. A jockey ~~shall~~ must make his or her best effort to control and guide his or her horse in such a way so as not to endanger his or her own horse or other horses and jockeys, nor to cause a foul.

P. A jockey ~~shall~~ must unsaddle his or her own horse before weighing-in, and shall weigh-in with the equipment with which he or she weighed-out.

Q. Each jockey ~~shall~~ must check the stewards' daily video replay list in the jockeys' room and report to the stewards, at the time designated, if so required by the list.

R. A jockey ~~shall~~ must notify the stewards in writing on a form provided by the commission if he or she intends to sever a business relationship with an agent or if he or she intends to change agents. The notification must be signed by both the jockey and agent.

Subp. 7. Jockey's agent. A jockey's agent shall keep a written record of all engagements made for jockeys he or she represents. The record shall be accurate and up-to-date, and shall be available at all times for inspection by the stewards.

A jockey's agent shall give no more than two calls per race for any jockey represented. Any agent arranging two calls for a jockey in any race shall designate one of the engagements as a first call and the other as a second call.

A jockey's agent shall be in the racing secretary's office, or shall check-in with the racing secretary's office, at scratch time to confirm a jockey's commitments for the day's program.

A jockey's agent shall notify the stewards in writing if he or she no longer intends to serve as agent for any jockey. When so notifying the stewards, the agent also shall turn over to the stewards a list of any unfulfilled engagements that he or she has made for the jockey.

Subp. 8. Horsepersons' bookkeeper. The horsepersons' bookkeeper shall:

A. be bonded;

B. receive all stakes, entrance money, jockeys' fees, drivers' fees, and purchase money in claiming races; and

C. keep a complete and accurate record of all money received, and make those records available for inspection by the commission.

Subp. 9. Veterinary negligence. Veterinarians shall not be negligent in the performance of their duties with respect to the health and welfare of a horse, or in the prescription or administration of a medication or injectable substance, or in the use of equipment for hypodermic injection. Veterinarians must remove from the grounds of an association all discardable equipment and injectable substance containers.

7877.0175 DUTIES AND RESPONSIBILITIES OF RACING OFFICIALS.

Subpart 1. Racing secretary. The racing secretary shall have the following responsibilities.

B. The racing secretary shall make stall assignments pursuant to chapter 7876 and shall maintain a record of the arrival and departure of all horses stabled on the ~~racetrack~~ grounds of an association.

F. The racing secretary shall maintain a list of horses that were entered but denied an opportunity to race because they were eliminated from a race programmed in ~~the printed condition book books~~ issued by the association.

G. The racing secretary's office shall keep up-to-date performance records on all horses registered to race at ~~the racetrack a race meeting.~~ Such files shall be kept current and furnished intact to the racing secretary of the succeeding race meeting.

Subp. 3. Starter. The starter shall have primary supervision over horses entered in any race from the moment they leave the paddock until the time that the start is effected.

D. The following starter's duties and responsibilities are applicable only to thoroughbred or quarter horse racing:

(2) The starter shall appoint and use the services of assistant starters as necessary, and shall daily change the gate position of each assistant starter without notice to the assistant starters until the field for the first race comes onto the ~~track~~ course.

Subp. 4. Paddock judge. The paddock judge shall have the following responsibilities.

E. The paddock judge shall immediately report to the stewards the absence of, ineligibility of, or any other irregularity with respect to a horse or its equipment, ~~or the paddock judge's inability to make a positive identification of a horse.~~

G. The paddock judge shall inspect the bandages worn by all horses arriving in the paddock and may order the bandages removed or replaced if he or she has reason to believe that a violation of statute or rule has occurred, is occurring, or will occur.

I. The paddock judge shall immediately notify the stewards of the reason for any horse returning to the paddock after having entered the ~~track~~ course for the post parade and before the start of the race.

Subp. 5. Identifier. The identifier shall check the identification of all horses entering the paddock by checking tattoo numbers, sex, color, and markings, and comparing those with documents of registration, eligibility, or breeding, as necessary to ascertain a horse's identity.

The identifier shall notify the stewards immediately upon detecting any discrepancy in a horse's tattoo numbers, markings, or other identifying characteristics.

The identifier shall supervise the identification of any horse at a ~~licensed racetrack~~ on the grounds of an association before approving the horse for tattooing.

Subp. 8. Commission veterinarian. The commission veterinarian shall maintain a list of the following:

- A. horses that are scratched because of illness or injury; and
- B. horses that are pulled-up because of lameness or other injury during a race.

The commission veterinarian's list shall be posted in the racing secretary's office, and any horse whose name is on the list shall be ineligible to enter a race for at least five calendar days, or until the commission veterinarian removes it from the list, whichever is later.

The commission veterinarian shall conduct racing-soundness examinations pursuant to part 7891.0100. If the veterinarian finds that any horse is unfit to race he or she shall notify the stewards immediately.

The commission veterinarian shall supervise the operation of a barn for the detention and testing of horses after each race pursuant to chapter 7890.

The commission veterinarian shall have the authority to draw blood from any horse or pony at a ~~licensed racetrack~~ on the grounds of an association for the purpose of conducting an Agar-Gel immunodiffusion (Coggins) test, and shall supervise the removal from the racetrack of any horse or pony having positive Coggins test results.

Subp. 12. Clocker (thoroughbred or quarter horse). A clocker shall accurately record all workouts on any race course at which a race meeting is being conducted; ~~or on any race course used as a training facility for horses eligible to be entered at the race meeting.~~

~~**Subp. 15. Jockey's agent.** A jockey's agent shall keep a written record of all engagements made for jockeys he or she represents. The record shall be accurate and up to date, and shall be available at all times for inspection by the stewards.~~

~~A jockey's agent shall give no more than two calls per race for any jockey represented. Any agent arranging two calls for a jockey in any race shall designate one of the engagements as a first call and the other as a second call.~~

~~A jockey's agent shall be in the racing secretary's office, or shall check-in with the racing secretary's office, at scratch time to confirm a jockey's commitments for the day's program.~~

~~A jockey's agent shall notify the stewards in writing if he or she no longer intends to serve as agent for any jockey. When so notifying the stewards, the agent also shall turn over to the stewards a list of any unfulfilled engagements that he or she has made for the jockey.~~

Subp. 16. 15. Clerk of the course (harness). The clerk of the course shall keep the stewards' sheets on which he or she shall record the following information:

~~**Subp. 17. Horsepersons' bookkeeper.** The horsepersons' bookkeeper shall:~~

- ~~A. be bonded;~~
- ~~B. receive all stakes, entrance money, jockeys' fees, drivers' fees, and purchase money in claiming races; and~~
- ~~C. keep a complete and accurate record of all money received, and make those records available for inspection by the commission.~~

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ADOPTED RULES

7877.0180 CONFLICTS.

Subp. 2. Veterinarians. No veterinarian designated as an official at a race meeting shall treat or prescribe treatment for a horse racing at that meeting, except in emergencies or if no other veterinarian licensed by the commission is on the ~~racetrack~~ grounds of the association. In that case, the official veterinarian shall notify the commission of any compensation received.

7878.0130 BASIC COURSE.

Subp. 2. Commission may waive requirements. Participation or continued instruction in a particular subject area listed in subpart 1 ~~may~~ must be waived by the commission if the individual shows satisfactory evidence that he or she is licensed or eligible to be licensed by the POST Board.

7878.0150 STANDARDS OF CONDUCT FOR SECURITY OFFICERS.

Subp. 2. Restrictions on security officers. No security officer may:

D. while on duty, place a bet on a race run at by the racetrack association where he or she is employed.

7883.0100 ENTRIES AND SUBSCRIPTIONS.

Subp. 4. Entering procedure. Nominations and entries shall be made in writing and signed by the owner or trainer of the horse, or the owner's authorized agent. Each association shall provide forms on which entries, scratches, and declarations are to be made for all races.

A. The racing secretary is and his or her designees are the only ~~person~~ persons authorized to receive entries, scratches, and declarations.

Subp. 6. Prohibited entries. No person shall:

D. enter in a race a horse if it is wholly, or partly owned by, trained by, or under the management of an unlicensed person, a person whose license is under suspension, or a person who acts in concert with or under the control of a person whose license is under suspension. If any entry from an unlicensed person or a person whose license is under suspension or of an ineligible horse is received, the entry shall be void and any money paid for the entry shall be ~~returned if the facts are disclosed one hour before post time for the race; otherwise, such money shall be~~ paid to the winner.

Subp. 7. Coupled entries. Except in stakes races and races which are conditioned for horses eligible for specified stakes, not more than two horses of the same licensed ownership or interest shall be entered and started in a race.

Subp. 16. Workout requirements. In order to be eligible:

A. A horse which has not started for a period of 45 days or more shall not be eligible to be entered until it has completed one timed workout ~~satisfactory to the stewards~~ prior to the entry date. Any workout following the entry of a horse shall appear on the official daily racing program or shall be posted for the public.

B. Horses that have not started within 60 days of time of entry into a race must have a minimum of two timed workouts ~~satisfactory to the stewards~~ prior to entering in any race.

C. First-time starters must have three gate approvals and a minimum of two timed workouts ~~satisfactory to the stewards~~ prior to the entry date.

7883.0130 PENALTIES AND ALLOWANCES.

Subpart 1. Determining penalties and allowances. Penalties and allowances shall be determined as follows.

E. Eligibility, penalties, and allowances of weight for all races will be determined ~~only~~ from the reports, records, and statistics published by the Daily Racing Form, and from information contained on Jockey Club (New York) foal certificates; but responsibility for weight carried and eligibility still remain with the owner and trainer as provided in part 7883.0100, subpart 15.

7883.0140 CLAIMING RACES.

Subp. 3. Examination of claim envelopes. The claims clerk shall open the claim box, search for, open, and examine the claim envelopes no sooner than ten minutes prior to post time for each race.

Subp. 9. Prohibition on claims. No person or racing interest shall:

D. remove any horse which has been entered in a claiming race from the ~~racetrack~~ grounds of the association where it has been entered to race, or fail or refuse to comply with any rule or any condition of the meeting for the purpose of avoiding or preventing a claim for such horse;

Subp. 13. Foal certificates remain in custody of racing secretary. The foal certificate or eligibility papers of a claimed horse shall remain in the custody of the racing secretary until the new owner removes the horse from the ~~track~~ grounds of the association.

Subp. 16. Title to claimed horse. Title to a horse which is claimed shall be vested in the successful claimant from the time the

field has entered the racetrack course for the race in which the horse is scheduled to run, unless the race is canceled or the horse is excused by the stewards. The claimant shall then become the owner of the horse whether it be alive or dead, sound or unsound, or injured during the race or after it.

Subp. 21. Claimed horse must race for higher claiming price. For a period of 30 days after being claimed, a thoroughbred or quarter horse shall not start in a race in which the eligibility price is less than 25 percent more than the price at which it was claimed. The day claimed shall not count, and the horse may be entered whenever necessary so that it may start on the 31st calendar day following the original claim for any claiming price. In thoroughbred racing, this provision shall apply to starter handicaps and starter allowances.

Subp. 24. Recognition of other racing jurisdictions' claiming rules. When a horse is claimed at a recognized meeting governed by the rules of another racing jurisdiction, Minnesota shall recognize ~~title to the~~ the claiming rules of the jurisdiction where the horse under those rules was claimed. However, while racing in Minnesota, such a horse must comply with this part.

7883.0150 PADDOCK TO POST.

Subp. 6. Duration of post-parade. After entering the ~~track~~ course not more than 14 minutes shall be consumed in the parade of the horses to the post except in cases of unavoidable delay. After passing the steward's stand once, horses will be allowed to break formation and canter, warm up, or go as they please to the post unless otherwise directed by the stewards. When the horses have reached the post, they will be started without unnecessary delay.

Subp. 7. Horses must be free of attendants. After the horses enter the ~~track~~ course, no jockey shall dismount and no horse shall be entitled to the care of an attendant without consent of the stewards or the starter, and the horse must be free of all hands other than those of the jockey or assistant starter before the field is dispatched by the starter. In case of accident to a jockey or to his or her mount or equipment, the stewards or the starter may permit the affected jockey to dismount and the horse to be cared for during the delay, and may permit all other jockeys to dismount and all other horses to be attended during the delay.

7883.0160 POST TO FINISH.

Subp. 8. Best effort must be made. All jockeys are expected to give their best efforts in races in which they ride, and any instructions or advice to jockeys to ride or handle their mounts otherwise than for the purpose of winning are prohibited and will subject all persons giving or following such instructions or advice to disciplinary action by the stewards and commission. If two horses run in one interest in any race, each ~~shall~~ must give their best effort.

Subp. 9. Protests. Protests with regard to the running of the race shall be made only by the owner, trainer, or jockey of the horse alleged to be aggrieved, and ~~shall~~ must be made to the stewards or the clerk of scales before or immediately after weighing in. An owner, trainer, or jockey who makes a frivolous protest may be fined.

Subp. 14. Horse becomes crippled or disabled. The following procedures shall apply if a horse during the running of a race becomes crippled or otherwise obviously unable to finish (broken bone, profuse bleeding, or other equally disabling condition):

A. It shall be dismounted, unsaddled, and removed from the course without passing the stand and may, under no circumstances, be destroyed on the ~~track~~ course or in the presence of the public without the permission of the stewards.

B. If a bone is broken, the horse shall remain on the ~~track~~ course until the horse-ambulance arrives and removes it.

7884.0200 STAKES RACES.

Subp. 3. Stakes ~~nominations and sustaining nomination fees.~~ All nominations to stakes races must be:

Subp. 8. Minimum number of starters may be required. An association may require at least five separate interests to start in a stakes race. If fewer horses than the number required are properly entered, the race may be ~~declared off~~ canceled. In that case, the total of nomination and sustaining payments received shall be divided equally among the horses entered without being credited as purse winnings. If no entries are made, the total nomination and sustaining payments shall be divided equally and awarded among the horses remaining eligible after the last sustaining payment, without being credited as purse winnings.

Subp. 9. Restrictions against entering or starting. Any horse that is on the qualifying, veterinarian, starter's schooling, or stewards' list may be nominated but shall not be eligible to enter or start in a ~~stakes~~ stakes race unless it is removed from those lists before the time of entry ~~or starting~~.

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ADOPTED RULES

7884.0230 RACING EQUIPMENT.

Subp. 3. Helmets must be worn. All persons must wear an approved protective helmet with the chin strap properly fastened at all times when racing, jogging, training, or when warming-up a horse on the ~~premises~~ grounds of a licensed racetrack an association.

7884.0240 POST TIME AND STARTING.

Subpart 1. Post time. The association shall establish the post time for each race and the stewards shall call the horses on the ~~track~~ course at a time to prevent delay after the completion of one or two scores.

Subp. 6. Starting gate. All races shall be started with a mobile starting gate of a design consistent with part 7875.0200, subpart 4, and approved by the commission, and shall be equipped with two-way communications to the stewards and a mechanical loudspeaker for communicating instructions to drivers. No person except the starter, his or her driver, and a patrol judge, shall ride in a starting gate without the permission of the stewards.

Subp. 8. Determination of a fair start. The determination of a fair start is signified by the word "go" announced by the starter at the starting point. The starting point is a point that shall be marked on the inside rail at a distance of not less than 200 feet from the first turn.

Subp. 9. Conduct of start. The following procedures shall be observed during the start of a race.

A. The horses shall be brought to the starting gate as near one-quarter of a mile before the start as the ~~track~~ course will permit.

7890.0110 MEDICATIONS AND REPORTING PROCEDURES.

Subp. 2. Veterinarians must keep records. Veterinarians must keep a logbook as to all medications and other substances as provided in part 7890.0100, subpart 7 6, items A and B, prescribed or administered, and any other professional services performed at a licensed racetrack. Such logbook shall be made immediately available to the commission veterinarian or the stewards upon request.

7890.0130 FINDINGS OF CHEMIST.

Subpart 1. Prima facie evidence. A finding by a chemist that any medication as defined in part 7890.0100, subpart 7 6, shall be prima facie evidence that the medication was administered and carried in the body of the horse while participating in a race. The finding shall also be taken as prima facie evidence that the attending trainer was negligent in the handling or care of the horse.

7891.0110 POST-MORTEM EXAMINATION.

Subp. 2. Test samples to be taken for analysis. Test samples must be obtained from every horse which undergoes a post-mortem examination. The samples shall be sent for analysis to a laboratory approved by the commission and the commission may direct the laboratory to retain and preserve such samples for future analysis.

When practical, both blood and urine test samples ~~should~~ shall be obtained prior to euthanasia.

7892.0120 TAKING OF SAMPLES.

Subpart 1. Horses tested. Blood and/or urine test samples shall be taken from the winning horse in every race, horses finishing second in races with quinella or exacta wagering, ~~defeated favorites,~~ horses selected at random during each racing program, and horses designated by the stewards or the commission veterinarian at any time upon suspicion that a violation of chapter 7890 has occurred. The stewards or veterinarian may require that specimens of saliva or other body fluid or excretion be taken from a tested horse as necessary to determine whether a violation of chapter 7890 has occurred. Any owner, trainer, or other person having care, custody, or control of a horse required to be tested must submit the horse immediately.

Subp. 3. Witnesses. The taking and sealing of any test sample must be witnessed or acknowledged by the signature of the trainer of the horse or his or her designee. The owner and/or trainer of a horse, or their designees, may be present at all times during the taking and sealing of the test samples.

Subp. 5. Split samples. A portion of the sample from each horse tested, after a sufficient amount has been sent to the official laboratory, must be preserved by the association. It must be available for testing at the request of a person accused of a violation of chapter 7890. A person so accused may request that the portion of the test sample retained by the association be sent to a laboratory other than the commission's official laboratory for testing. A person making a request must bear the cost of shipment and additional testing.

Subp. 6. Other materials. The stewards or commission veterinarian may direct that a sample be taken of any material on the ~~premises of a licensed racetrack~~ grounds of an association if the stewards or commission veterinarian suspect the material contains a substance which has been used or will be used in violation of chapter 7890.

7892.0130 TESTING.

Subpart 1. Laboratory. Any laboratory designated by the commission to analyze and report on the presence of prohibited substances in test samples must participate in and comply with the standards and procedures established by the Uniform Drug Testing and Quality Assurance Program of the National Association of State Racing Commissioners.

Subp. 2. Chemist. The chemist responsible for detecting and identifying prohibited substances at an official laboratory must be a member in good standing of the Association of Official Racing Chemists.

Subp. 3. 2. Equipment. Every official laboratory must be equipped with the following:

Subp. 4. 3. Procedure. The method for analysis of test samples by an official laboratory shall be:

Subp. 5. 4. Reports. An official chemist shall report the results of tests promptly to the stewards and commission veterinarian.

7892.0160 COST RECOVERY.

The commission shall assess ~~the~~ each association for its share of the cost of establishing and initially staffing the official laboratory.

CHAPTER 7895**MINNESOTA RACING COMMISSION****BREEDERS' FUND****7895.0100 GENERAL PROVISIONS.**

Subpart 1. Scope. For purposes of administering the breeders' fund under Minnesota Statutes, section 240.18, and the required race provision of Minnesota Statutes, section 240.29, the following parts are adopted.

Subp. 2. Registration. To qualify for payment of awards and for entry into restricted races, all foal certificates must have the Minnesota registration seal affixed upon them. The seal shall be proof that the requirements of this part have been met. The proof may be affidavits or investigative reports as the commission deems necessary.

Subp. 3. Decisions regarding eligibility for registration. Questions regarding the registration, eligibility for registration, or breeding of a Minnesota-bred horse shall be decided by the commission. An official registering agency must be designated by the commission and empowered to act in matters relative to registration, eligibility for registration, or breeding. A decision of the official registering agency shall be subject to review by the commission which retains the right to make the final decision as to any right or liability under this chapter. The commission or the designated registering agency may demand and inspect any registration certificate or record of a Minnesota breeder, and may require affidavits or other substantive proof as the commission or official registering agency deems necessary to support any claim for Minnesota-bred registration.

Subp. 4. Decision regarding eligibility to enter restricted races. Questions as to the eligibility for nomination or entry in races restricted to Minnesota-bred horses shall be decided by the commission or the official registering agency.

Subp. 5. Basis for allocation. The amount of money allocated for any particular race should reflect the quality of the race being run.

Subp. 6. Breeders' fund advisory committees. All money allocated pursuant to this chapter shall be determined by the commission after consultation with the appropriate Breeders' Fund Advisory Committee.

7895.0110 THOROUGHBRED BREEDERS' FUND.

Subpart 1. Definitions. For the purposes of this part, the following terms have the meaning given them unless another intention clearly appears.

A. "Minnesota-owned" means a horse whose owner or owners reside in Minnesota, who declare themselves to be residents of Minnesota for purposes of Minnesota Statutes, chapter 290, who declare that they are not residents of any other state, and all of whom hold Class C licenses issued by the commission.

B. "Minnesota-foaled" means a horse foaled in Minnesota.

C. "Minnesota-bred" means a horse foaled in Minnesota.

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ADOPTED RULES

D. "Minnesota-sire" means a stallion owned at least 50 percent by residents of Minnesota or leased entirely by Minnesota residents; and which has stood the entire breeding season, between February 15 and July 31, in Minnesota.

Subp. 2. Division of money. The money available from the breeders' fund for the thoroughbred breed category shall be divided as follows:

A. Thirty-one percent shall be set aside and paid to breeders of Minnesota-bred horses through breeders' awards.

B. Thirty-one percent shall be set aside and paid to owners of Minnesota-bred horses as owners' awards.

C. Thirty-one percent shall be set aside and paid to supplement purses in races which are restricted to Minnesota-bred or Minnesota-owned horses. In all such races Minnesota-bred horses shall be preferred; and the purse supplements shall be apportioned in accordance with the quality of the race as determined by the commission pursuant to part 7888.0140.

D. Seven percent shall be set aside as stallion awards and paid as an award to the certified Minnesota owners of the Minnesota-sire at the time of breeding.

Subp. 3. Distribution of money. The money available from the thoroughbred breed categories shall be distributed as follows:

A. "Breeders awards" shall be paid to the breeder of a Minnesota-bred horse who finished third or better in any allowance, handicap, or stake race, including maiden allowance.

B. "Owners awards" shall be paid to owners of Minnesota-bred horses who finish third or better in any claiming race for \$10,000 or more, or in any allowance, handicap, or stake race, including maiden allowance.

C. "Stallion awards" shall be paid to the Minnesota owners of the Minnesota-sire of a Minnesota-bred horse that finished third or better in any allowance, handicap, stake, or maiden allowance race.

Subp. 4. Methods of payment. The amount of money allocated by the commission for awards or supplements for a qualifying race shall be paid out in the following percentages:

A. purse supplements shall be distributed in the same percentage as the purse money in the race; and

B. the money allocated to any race for owner or breeder awards shall be distributed as follows:

(1) 60 percent to the qualified winner;

(2) 30 percent to the qualified second-place finisher; and

(3) ten percent to the third-place qualified finisher.

Subp. 5. Undistributed awards transferred to residual funds. Money allocated for breeders' awards in any race which is not distributed for lack of a qualifying horse shall be transferred to the breeders' residual fund. Money allocated for owners' awards in any race which is not distributed for lack of a qualifying horse shall be transferred to the owners' residual fund. The share of the stallion award allocation not distributed shall be transferred to the owners' residual award fund.

Subp. 6. Distribution of residual funds. The money in the respective residual funds shall be awarded at the end of the meet and paid to the breeders and owners in proportion to the individual purse money won by a Minnesota-bred horse to the total purse money won by Minnesota-bred horses as a group.

7897.0100 PROHIBITED ACTS.

Subpart 1. Scope. The following activities are considered prohibited acts if they are committed, or attempted to be committed, within the enclosure of a licensed racetrack while on the grounds of an association.

Subp. 3. Possession of firearms or weapons. No unauthorized person except as authorized by the commission or association, shall possess within the enclosure of a licensed racetrack while on the grounds of an association a firearm or other dangerous weapon as defined in Minnesota Statutes, section 609.02, subdivision 6.

Subp. 5. Smoking. No person shall smoke in unauthorized nonsmoking areas as designated by the commission or the association.

Subp. 8. Contact with jockeys/drivers. No unauthorized person persons, except as authorized by the stewards, shall communicate or attempt to communicate with a jockey or gain entrance to the jockeys' quarters driver during racing hours, or attempt to gain entrance to the jockeys'/drivers' quarters at any time.

Subp. 13. Veterinary negligence. Veterinarians shall not be negligent in the performance of their duties with respect to the health and welfare of a horse, or in the prescription or administration of an unauthorized medication or injectable substance, or in the use of equipment for hypodermic injection.

Subp. 14. 13. Failure to obtain license. No person shall fail to secure a Class C license, if required, prior to the performance of his or her occupational duties.

Subp. 15. 14. Employing unlicensed personnel. No licensee shall employ unlicensed personnel unless licenses are not required for such personnel.

Subp. 16. 15. Removing a horse without permission. No person shall remove from the stable area of a licensed racetrack any horse without the written permission of the racing secretary or the stewards.

Subp. 17. 16. Helmets to be worn. No person shall ride or drive a horse ~~in the stable area or on the main track or training track~~ while on the grounds of an association without a properly fastened protective riding helmet.

Subp. 18. 17. Hypodermic equipment and injectable substances prohibited. The following shall apply to the possession of hypodermic equipment and injectable substances ~~at racetracks~~ while on the grounds of an association:

A. While within a restricted area of a licensed racetrack no person, other than a veterinarian, shall have in his or her possession any equipment for hypodermic injection or any substance for hypodermic administration. A noninjectable medication prescribed by a veterinarian for an existing condition may be possessed, but provided its user has a valid current prescription and its use shall be is consistent with the purposes of this chapter.

7897.0120 DISCIPLINARY SANCTIONS.

Subpart 1. Licenses. Any licensee engaging in any prohibited act as provided in parts ~~7893.0100~~ 7897.0100 and ~~7893.0110~~ 7897.0110 is subject to license suspension or revocation, and/or the levying of a fine as provided in part ~~7893.0130~~ 7897.0130.

Subp. 2. Exclusion from racetrack. Any person engaging in any prohibited act as provided in part ~~7893.0100~~ 7897.0100 is subject to exclusion pursuant to Minnesota Statutes, section 240.27, from all licensed racetracks under the jurisdiction of the commission.

7897.0150 DISCIPLINARY AND APPEAL PROCEDURES.

Subpart 1. Stewards' meetings. Whenever the stewards ~~at a racetrack~~ have reasonable cause to believe that a Class C licensee has committed an act or engaged in conduct in violation of statute or rules of the commission or which in the opinion of the stewards otherwise adversely affects the integrity of horse racing, the following procedures will apply:

7897.0160 COMPOSITION OF HEARING PANEL.

Subpart 1. Designation of panel. All appeals of stewards' rulings may be heard by a panel of three or more commission members. The commission chair shall appoint the panel members and shall also designate one of them as the chair of the panel.

7897.0170 CONDUCT OF APPEAL HEARING.

Subp. 7. Burden of proof. The party proposing ~~the~~ that certain action be taken must prove the facts at issue by a preponderance of the evidence, unless the substantive law provides a different burden or standard.

7897.0190 DISCIPLINARY ACTION BY COMMISSION.

Subpart 1. Contested case hearings. The commission may take the following disciplinary action only after a contested case hearing held in accordance with the contested case procedures in Minnesota Statutes, chapter 14 and rules adopted pursuant thereto:

- A. revoke a Class A, B, C, or D license;
- B. suspend or fine a Class A, B, or D license; and
- C. suspend a Class C license for more than 30 days, and/or fine a Class C license in an amount exceeding \$500.

7897.0200 COMMISSION DECISION.

Subp. 3. Decision or order. The decision or order shall be in writing or stated in the record and shall be accompanied by a statement of the reasons therefor. The statement of reasons shall consist of a concise statement of the conclusions upon each contested issue of fact necessary to the decision. Parties to the proceeding shall be served personally served or by first-class mail with a copy of the decision or order and accompanying statement of reasons; ~~or by first class mail.~~

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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 Health

Emergency Medical Services Licensure Application—Mountain Iron Area

As of May 20, 1985, a complete application for scheduled basic life support transportation service was submitted by Minntac Ambulance Service to operate a base of operation at U.S. Steel Corporation—Minnesota Ore Operations—Fire Department to serve the plants and mine located at Mountain Iron, Minnesota.

This notice is given pursuant to Minnesota Statutes 1979, Section 144.802, which requires in part that the Commissioner of Health published the notice at the applicant's expense in the *State Register*.

Each municipality, county, community health services agency, and any other interested person wishing to comment on this application may submit comments to the Health Systems Agency of Western Lake Superior, 202 Ordean Building, 424 West Superior St., Duluth, Minnesota 55802, Attn: Jennifer Peterson. The comments must reach the Health Systems Agency before June 19, 1985 or be submitted at the public hearing.

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

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

Department of Human Services

Outside Opinion Sought Concerning Child Day Care Center Licensure

Notice is hereby given that the Minnesota Department of Human Services is considering draft amendments of Minnesota Rules, parts 9503.0511 to 9503.0651 (formerly known as Rule 3), Child Day Care Center Licensure.

This rule is authorized by Minnesota Statutes, section 245.802, Subdivision 1, and governs the standards of licensure as a child day care center providing care for children on a regular basis for periods of less than 24 hours per day, in a place other than the children's home.

The proposed changes include revised requirements for placement of children in age categories; care of sick children; review of health practices by a licensed health professional; notices to parents concerning illness; sanitation; behavior guidance; maximum group size; staff to child ratios; qualifications to be employed as a staff member; safety; and equipment.

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

Eleanor Weber
Rulemaking Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55101

Oral statements of information and comment will be received during regular business hours over the telephone at 612/297-4301.

All statements of information and comment will be accepted until June 24, 1985. Any written material received by the Department shall become part of the hearing record.

Department of Human Services Reimbursement Division

Outside Opinion Sought Concerning Reimbursement for Cost of Care of Patients of a State Hospital

Notice is hereby given that the Minnesota Department of Human Services is considering draft amendments to Minnesota Rules, Parts 9515.1000 to 9515.2600, governing the administration of the state hospital cost of care program.

This rule is authorized by Minnesota Statutes, section 246.51, Subd. 2, and specifies standards for determining liability of patients and relatives of patients for care provided at state hospitals.

The proposed changes relate to statutory amendments occurring during 1984, place a number of limitations as to resources considered available to pay for state hospital care, and simplify determinations of liability for the cost of such care.

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

Kenneth M. Mentz
Reimbursement Division
Department of Human Services
P.O. Box 64171
St. Paul, Minnesota 55164

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-3507.

All statements of information and comment will be accepted until further notice. Any written material received by the Department will become part of the rulemaking record.

Department of Human Services Department of Health Department of Public Safety

Outside Opinion Sought Concerning Merit System Rules

Notice is hereby given that the Minnesota Department of Human Services, the Minnesota Department of Health and the Minnesota Department of Public Safety are considering proposed amendments to those rules affecting their classification and compensation plans and salary schedules. The agency's authority to amend the proposed rules is contained in Minn. Stat. §§ 256.012, 144.071 and 12.22, subd. 3.

The proposed rule changes are:

Minnesota Rules, part 9575.0010, parts 9575.0300-9575.0380, part 9575.1400, and parts 9575.1500-9575.1580.

Minnesota Rules part 4670.0100, parts 4670.0900-4670.0950, parts 4670.1000-4670.1600, parts 4670.3900-4670.4050, and parts 4670.4200-4670.4240.

Minnesota Rules, part 7520.0100, parts 7520.0500-7520.0550, parts 7520.0600-7520.0680, part 7520.0700, subpart 8, and parts 7520.1000-7520.1100.

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

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

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

OFFICIAL NOTICES

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

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

Metropolitan Council

Notice of Review Schedule: Amendments to Part 1, Water Resources Management Development Guide

The Minnesota Pollution Control Agency (MPCA) issued revised permits covering combined sewer overflow to the Mississippi River in September 1984. These Sewer Discharge System (SDS)/National Pollution Discharge Elimination System (NPDES) permits expire after 21 months. The permittees include the Metropolitan Council, Metropolitan Waste Control Commission (MWCC), and the cities of St. Paul, Minneapolis and South St. Paul. (The Metropolitan Council and the MWCC are considered joint permittees with Minneapolis and St. Paul, each liable for permit compliance to the extent of their statutory authority.) Failure to comply with the terms of the permits means potential liability from possible enforcement actions by MPCA, the EPA or the courts.

Amendments to Part 1 of the Metropolitan Council's Water Resources Management Development Guide are being proposed to comply with the terms of NPDES permits on CSO. The amendments incorporate the preferred sewage separation solution on an accelerated schedule into the Council's sewage treatment policy and system plan sections of the Water Resources Management Development Guide, Part 1.

The following is a tentative schedule for review of the CSO plan amendment.

April 25, 1985	Metropolitan Council adopts for public hearing purposes an amendment to the Water Resources Management Development Guide/Policy Plan (208 Plan) to address CSO control in the seven-county Metropolitan Area.
June 5, 1985	Informational meeting on legislative action and impacts on proposed CSO solution.
July 8, 1985	Public hearing before the Metropolitan Council on proposed plan amendment.
July 22, 1985	Hearing record closes.
August 5, 1985	Hearing report available.
August 12, 1985	Metropolitan Systems Committee reviews final hearing report and approves final amendment.
August 22, 1985	Metropolitan Council adopts final amendment.

This schedule is tentative and subject to change. A subsequent notice of public hearing will be published. If you have questions regarding the schedule or amendments, call Chuck Ballentine of the Council's Housing staff at 291-6381.

Board of Public Defense

Applications Accepted for State Public Defender's Office

The State Board of Public Defense is accepting applications for the Office of State Public Defender. Applications and resumes should be sent to the State Board of Public Defense, 95 SubPlaza, University of Minnesota Law School, Minneapolis, Minnesota 55455, to the attention of Mrs. Peggy Walstead.

Applications must be received on or before June 10, 1985.

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 June 11, 1985.

COUNCIL ON AFFAIRS OF SPANISH-SPEAKING PEOPLE has 1 vacancy open for a representative of the Hispanic community of the state. The council advises the Governor and legislature on issues affecting the Spanish-speaking community. Members are appointed by the Governor and confirmed by the Senate. Monthly meetings; members receive \$35 per diem. For specific information contact the Council on Affairs of Spanish-Speaking People, 504 Rice Street, St. Paul 55101; (612) 296-9587.

METROPOLITAN AIRPORTS COMMISSION has 2 vacancies open immediately. Members must be a resident of the appropriate Metropolitan Airports Commission commissioner precinct. The commission promotes air transportation, international, national, state and local by developing the Twin Cities as an aviation center, coordinates with other aviation facilities in the state to provide economical and effective use of aeronautic facilities and services; may build new airports or acquire existing airports in the metropolitan area; adopts and enforces regulations to manage all metropolitan airports; controls airport land use and provides for airport noise control. Members are appointed by the Governor; members must file with EPB. Monthly meetings; members receive \$50 per diem. For specific information contact the Metropolitan Airports Commission, 6040 28th Ave. S., Minneapolis 55450; (612) 726-1892.

SMALL BUSINESS PROCUREMENT ADVISORY COUNCIL has 1 vacancy open for a member. The council advises the Commissioner of Administration on the small business procurement program, reviews complaints from vendors and reviews compliance reports. Members are appointed by the Governor. Members receive no compensation. For specific information contact the Small Business Procurement Advisory Council, 112 Administration Bldg., St. Paul 55155; (612) 297-4412.

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS has 1 vacancy open for a member. The board licenses administrators of nursing homes, board/care homes and mental retardation facilities; conducts studies of nursing home administration, approves continuing education programs for administrators; investigates complaints and allegations of rule violations. Members are appointed by the Governor; members must file with EPB. Quarterly meetings; members receive \$35 per diem. For specific information contact the Board of Examiners for Nursing Home Administrators, 717 Delaware St. S.E., Mpls. 55414; (612) 623-5406.

MUNICIPAL BOARD has 1 vacancy open for a member. The board acts on all boundary adjustments between a city and the adjacent land, and rules on incorporations. Members are appointed by the Governor. Members must file with EPB. Monthly meetings; members receive \$50 per diem plus expenses. For specific information contact the Municipal Board, 165 Metro Square Bldg., St. Paul 55101; (612) 296-2428.

APPRENTICESHIP ADVISORY COUNCIL has 1 vacancy open for an employee member. The council proposes occupational classifications and minimum standards for apprenticeship programs and agreements; advises the Commissioner of Labor and Industry. Members are appointed by the Commissioner. Quarterly meetings; members receive \$35 per diem plus expenses. For specific information contact the Apprenticeship Advisory Council, Dept. of Labor and Industry, Office of Public Affairs, Space Center Bldg., 444 Lafayette Rd., St. Paul 55101; (612) 297-4374.

BOARD OF TEACHING has 1 vacancy open for a public member. The board establishes rules of governing education, licensing and relicensing of teachers. Members are appointed by the Governor. Members must file with EPB; monthly meetings; members receive \$35 per diem plus expenses. For specific information contact the Board of Teaching, 608 Capitol Square Bldg., 550 Cedar St., St. Paul 55101; (612) 296-2415.

ADVISORY COUNCIL ON WORKERS' COMPENSATION has 1 vacancy open for an injured employee representative. The council studies workers compensation law and its administration and recommends changes where appropriate. Members are appointed by the Commissioner of Labor and Industry. Monthly meetings; members receive \$35 per diem plus expenses. For specific information contact the Advisory Council on Workers' Compensation, Dept. of Labor and Industry, Office of Public Affairs, 444 Lafayette Rd., St. Paul 55101; (612) 297-4373.

MINNESOTA EDUCATIONAL COMPUTING CORPORATION has 2 vacancies open for members. The corporation shall provide cost-effective computing and technology related products and services to the educational programs of educational institutions and agencies in Minnesota and elsewhere. Members shall be knowledgeable about the use of computing in elementary, secondary, vocational education and public and private higher education or the business community. Members are appointed by the Governor. Terms are staggered; members must file with EPB. For specific information contact the Minnesota Educational Computing Corporation, Ken Brumbaugh, Executive Director, 3490 Lexington Ave., Shoreview 55122; (612) 481-3510.

CHARITABLE GAMBLING CONTROL BOARD has 3 vacancies open for members. The board shall regulate legal forms of gambling to prevent their commercialization, to ensure integrity of operations and to provide for the use of net profits only for lawful purposes. Members are appointed by the Governor. Must have been residents for at least 5 years, not more than six members may belong to the same political party. At least 4 members must reside outside of the seven county metropolitan area. Terms are staggered. Members receive \$35 per diem plus expenses. Members must file with EPB. For specific information contact the Charitable Gambling Control Board, 900 Summit National Bank Bldg., 310 4th Ave. S., Mpls. 55415; (612) 341-7676.

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.

Administration Department

Request for Proposals to Provide Diagnostic and Referral Services for the State Employee Assistance Program

Notice is hereby given that the Department of Administration intends to engage the services of a contractor in each of the following areas to provide diagnostic and referral services for State employees and their dependents: Bemidji, Brainerd, Cambridge, Crookston, Duluth, Faribault/Owatonna, Fergus Falls, Grand Rapids, Mankato, Marshall, Rochester, St. Cloud, Virginia/Range, Willmar, and Winona.

Contractors shall be expected to maintain full-staffed offices in each of the locations indicated to provide five-day-per-week service to clients.

Contractors also will be mandated to use a percentage of the amounts for local outreach activities, subject to approval by the program office.

The estimated amount of the contract in each of these areas will not exceed \$4,000. Responses must be received by June 3, 1985.

Direct inquiries to:

Keith Tvedten
Director
State Employee Assistance Program
Suite 200, Summit National Bank Building
205 Aurora Avenue
St. Paul, MN 55103
(612) 296-0765.

Department of Administration Information Services Bureau

Correction of Deadlines for Contracts for Programming Services and Systems Analysis

The submission dates for Requests for Proposals were incorrectly published on page 2448 of the May 6, 1985 *State Register*.

The correct submission dates for Overload (Backup) Programming Services and for Overload (Backup) Systems Analysis are May 17, 1985, by 4:00 p.m.

**Department of Administration
Procurement Division**

Commodities Contracts and Requisitions Currently Open for Bidding

<u>Requisition #</u>	<u>Item</u>	<u>Ordering Division</u>	<u>Delivery Point</u>	<u>Estimated Dollar Amount</u>
26-175-06074, 7647	1985-87 Information Bulletin	Southwest State University	Marshall	Contact buyer
21-200-09279 Rebid Contract	Move Office Furniture & Equipment	Economic Security	St. Paul	Contact buyer
26-071-15113	Printed Envelopes Projectors	Various Mankato State University	Various Mankato	\$60,000-70,000 Contact buyer
30-000-15101	Purchase of Computer Graphic System	State Planning Agency Planning Information Services	St. Paul	Contact buyer
29-001-08598	Coffee Pot Landing Rehabilitation—Hubbard County near Becida	Natural Resources—Trails	Becida	Contact buyer
07-500-33799	Aluminum Ticket Book Holders	Public Safety	St. Paul	Contact buyer
55-101-06199	Convection Ovens	Fergus Falls Hospital	Fergus Falls	Contact buyer
26-072-09277	Furnish Glass & Glazing	Moorhead University	Moorhead	Contact buyer
78-630-06508	Rubbish Disposal Contract	MN Correctional Facility	Oak Park Heights	Contact buyer
Contract	Paper, Misc. (Index Cards, Scratch Pads, etc.)	Administration—Central Stores	St. Paul	Contact buyer
55-000-90997	Purchase of Scanner	Human Services—Assistance Payments	St. Paul	Contact buyer
Various	Flu Vaccine	Various	Various	Contact buyer
Various	Admission Kits	Various	Various	Contact buyer
78-830-07183 Rebid	Air Compressor	MN Correctional Facility	St. Cloud	Contact buyer
07-300-33527	Automated Record Retrieval System	Public Safety—Bureau of Criminal Apprehension	St. Paul	Contact buyer
27-153-45335, 8104	Class Schedules 1985-86 FW&S	N. Hennepin Community College	Minneapolis	Contact buyer
63-000-00577, 8086	Personal Benefit Statement	Public Employees Retirement Association	St. Paul	Contact buyer
79-000-46821, 7684	Map: Explore MN Bikeways Southeast	Transportation	St. Paul	Contact buyer
Contract	Towel & Mop Service	Winona State University	Winona	\$12,500-13,000
26-072-09273	Install Door & Frame	Moorhead State University	Moorhead	Contact buyer
77-900-09160	Diving Equipment	MN Zoological Garden	Apple Valley	Contact buyer
32-200-12550	Purchase of Controller & Memory Cards	Pollution Control Agency	Roseville	Contact buyer
06-000-05194	Rental of Photocopy Machine	Attorney General	St. Paul	Contact buyer
Sch. 117-C Con- tract	Corrugated Metal Pipe & Plastic Corrugated Pipe	Various	Various	\$150,000-160,000
78-620-20853	Filter Bags	MN Correctional Facility	Stillwater	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
99-690-25781	Purchase of Computer Equipment	Administrative Hearings	Minneapolis	Contact buyer
07-200-33756	Safety Suits	Public Safety	St. Paul	Contact buyer
26-072-08966	Labor & Material to Replace Bleacher Stands	Moorhead State University	Moorhead	Contact buyer
27-138-45700	Drill in Well	Lakewood Community College	White Bear Lake	Contact buyer
26-071-15095	Furnish & Install Louver Drapes/Blinds	Mankato State University	Mankato	Contact buyer
Contract	Maintenance for Typewriters	Various	Various	Contact buyer
27-153-45340, 8284	Tabloid 1985/86 Fall, Winter, Spring	N. Hennepin Community College	Minneapolis	Contact buyer
Contract	Auto Glass Replacement	Various	Various	\$40,000-50,000
27-153-45340, 8284	Tabloid 1985/86 Fall, Winter, Spring	N. Hennepin Community College	Minneapolis	Contact buyer
Contract	Title Slides & Slide Processing from Original Artwork	Various	Various	\$10,000-15,000
26-073-17581, etc.	Floor Maintenance Equipment	Various	Various	Contact buyer
29-000-40043	Used All Terrain Vehicles	Natural Resources	Grand Rapids	Contact buyer
78-630-06296	Pallet Racks-Furnish & Install	MN Correctional Facility	Oak Park Heights	Contact buyer
Rebid				
02-310-13913	Lounge & Dining Room Furniture	Cambridge State Hospital	Cambridge	Contact buyer
29-000-37925	All Terrain Vehicle	Natural Resources	Grand Rapids	Contact buyer
29-000-37584	Purchase of Microcomputer	Natural Resources—Waters	St. Paul	Contact buyer
Contract Rebid	General Office Pencils & Mechanical Pencils	Administration Central Stores	St. Paul	\$1,700-2,000
79-000-46875	Fiberglass Tanks	Transportation	Various	Contact buyer
Contract	Snow Removal Contract	Hibbing Community College	Hibbing	Contact buyer
Contract	Snow Removal	Lakewood Community College	White Bear Lake	Contact buyer
07-500-33870	Radio System	Transportation	St. Paul	Contact buyer
Sch. 124-B	Grader Blades & Snow Plow Cutting Edges	Transportation	St. Paul	Contact buyer
Contract Rebid	New Ergonomic Chair Contract	Various	Various	Contact buyer
04-512-26955, 7491	MN International Business Services Directory	Agriculture	St. Paul	Contact buyer
55-000-91253, 8336	AFDC Household Report & Food Stamp Household Report	Human Services	St. Paul	Contact buyer
02-410-45272	Purchase of ADC Jackfield		St. Paul	Contact buyer
26-074-10059, etc.	Addendum #1 Vehicle	Various	Various	Contact buyer
79-000-46889	Video Equipment	Transportation	St. Paul	Contact buyer
07-500-33798	Speed Calibration Devices	State Patrol	St. Paul	Contact buyer
55-101-06193	Supply & Install Linoleum Floor	Fergus Falls State Hospital	Fergus Falls	Contact buyer
29-008-32918	Uniform Clothing & Accessories	Natural Resources	St. Paul	Contact buyer
Contract	Tools, Cutting, Misc. (Drill Bits)	Various	Various	\$4,000-5,000
34-000-04540	Purchase of Terminals	Housing Finance Agency	St. Paul	Contact buyer
27-148-45946, Rebid	Furnish & Install Golf & Batting Cage	Rochester Community College	Rochester	Contact buyer

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
04-512-26924	Purchase of Disk Drive and Memory	Agriculture—MN Trade Office	St. Paul	Contact buyer
26-070-10807	Purchase of Network System	Bemidji State University	Bemidji	Contact buyer
01-000-04060 Rebid	Window Cleaning	Military Affairs	Military Affairs	Contact buyer
79-000-46859	Truck	Various	Various	Contact buyer
12-300-85126	Rotary Files	Health	Minneapolis	Contact buyer
26-071-15074	Wireless Security System	Mankato State University	Mankato	Contact buyer
79-100-03332	Sign Holders & Accessories	Transportation	Duluth	Contact buyer
55-201-06184	Refrigerators	Cambridge State Hospital	Cambridge	Contact buyer
79-000-46854 & 44274	Radio Comm. Shelter	Transportation	Madison, WI & Owatonna	Contact buyer
26-071-15102	Ellipsoidel Spotlights	Mankato State University	Mankato	Contact buyer
Contract	Rubber Stamps	Various	Various	\$5,000-10,000

Contact 296-6152 for referral to specific buyers.

Department of Energy and Economic Development Office of the Commissioner

Request for Proposals for Public Relations and Advertising Contract

Pending legislative approval of the Minnesota Department of Energy and Economic Development marketing budget, the department is seeking proposals from agencies interested in competing for an advertising and public relations contract through June 1986, with a one-year renewal option.

The estimated annual sum of the contract is \$810,000. Approximately \$650,000 will be dedicated to advertising, with the remainder dedicated to public relations. However, all dollar amounts are estimates and subject to final legislative appropriation, contract language and marketing program planning.

The contract period will be July 1, 1985, to June 30, 1986, and will include a one-year renewal option effective July 1, 1986, through June 30, 1987.

The contract calls for continued implementation of a marketing and advertising program designed to promote and position Minnesota as an excellent place to work and operate a business. Only comprehensive proposals covering both aspects of the contract objectives will be considered. No partial proposals will be considered. Two agencies may submit proposals in tandem.

Five (5) copies of each proposal are due at the Minnesota Department of Energy and Economic Development Marketing Office, 900 American Center Building, 150 East Kellogg Boulevard, St. Paul, MN 55101, no later than 4:30 p.m. on June 10, 1985. Questions on the content of the proposal should be directed to Chris Welsh, Marketing Director (612/297-3059). For a complete copy of the request for proposal and an application/questionnaire, contact the Marketing Office at 612/297-3059.

Department of Human Services Chemical Dependency Program Division

Request for Proposals for Specialized Services for Hearing-Impaired Persons Experiencing Chemical Abuse or Dependency Problems

The Chemical Dependency Program Division (CDPD) of the Department of Human Services is soliciting proposals (RFPs) for the provision of demonstration chemical abuse/dependency services for hearing impaired individuals who are presently not able to

STATE CONTRACTS

receive such services from existing agencies/providers. A total of \$30,000 is available for one or more grantees. The funded service(s) will begin on or about October 1, 1985 and continue for a minimum of 12 months.

All requests for further information or copies of the complete RFP form can be obtained by contacting Dorrie Hennagir at 612/296-4617.

Proposals in response to this RFP must be submitted on the CDPD grant application form. A copy of the application form can be obtained by contacting Ms. Hennagir, CDPD Grants Manager, at the above phone number. Eight copies of each proposal must be in the CDPD office, Space Center Building, 444 Lafayette Rd., St. Paul, Minnesota 55101, no later than 4:20 p.m. on August 1, 1985.

Department of Human Services Health Care Programs Division

Contracts Available for Prepaid Health Plans

The Department of Human Services is embarking on a Prepaid Medicaid Demonstration Project in Hennepin and Dakota counties. The Department is offering contracts for prepaid health plans to provide services for AFDC and Aged or Blind/Disabled MA clients. Prepaid plans must be organized to provide all MA covered services and must be able to accept financial risk. Capitation rates have been set by the State. Contracts will be awarded based on: (1) geographic accessibility of service delivery sites (2) ability to service special needs populations (3) financial and risk capability and (4) ability to meet quality assurance, grievance and service delivery standards.

The Department of Human Services will issue a Request for Proposals (RFP) to all interested parties. The deadline for proposal submission is 4:00 p.m., June 28, 1985. Selection of contractors will be made in August, 1985, with one year contracts to be effective October 1, 1985.

Proposals and inquiries should be directed to:

Ms. Kathy Heuer
Department of Human Services
Health Care Programs Division
1st Floor Space Center Building
444 Lafayette Road
St. Paul, MN 55101
Phone: 297-4668

Department of Human Services Willmar State Hospital

Request for Proposals for Psychiatrists, Radiologists, and Protestant Chaplain Services

Notice is hereby given that the Willmar State Hospital, Mental Health Division, Department of Human Services, is seeking the following services for the period July 1, 1985, through June 30, 1986 with option to renew for one year period ending June 30, 1987. These services are to be performed as requested by the Administration of the Willmar State Hospital:

1. Services of Radiologists to interpret X-ray films; provide radiological supervision and X-ray consultation; provide specialized X-ray procedures. Estimated amount of the contract will not exceed \$10,400.00, first year, with option to renew for one year.

2. Services of Psychiatrist to provide consultation to Adolescent Treatment Unit, Psychiatric Rehabilitation Unit and Chemically Dependent Unit; special skills in adolescent and chronic mental illness psychiatry. Estimated amount of the contract will not exceed \$33,480.00, first year, with option to renew for one year.

3. Services of a full time Protestant Chaplain; to conduct services and other ministries to Mentally Ill, Mentally Retarded and Chemically Dependent Patients. Estimated amount of the contract will not exceed \$12,500.00, first year, with option to renew for one year.

4. Services of a part time Catholic Chaplain; to conduct services and other ministries to Mentally Ill, Mentally Retarded and Chemically Dependent Patients. Estimated amount of the contract will not exceed \$7,010.00, first year, with option to renew for one year.

5. Services of a Psychiatrist, to provide consultation for newly admitted mentally ill patients, consultative services in the clinical management of mentally retarded residents and related educational guidance to treatment staff at Willmar State Hospital. Estimated amount of contract will not exceed \$32,768.00 first year.

RESPONSES FOR THE ABOVE SERVICES MUST BE RECEIVED BY JUNE 10, 1985.

Direct Inquiries to:

Lester E. Johnson, Chief Executive Officer
Willmar State Hospital
Box 1128
Willmar, MN 56201
(612) 231-5100, Ext. 205

State Designer Selection Board

Request for Proposals for State Project

TO ARCHITECTS AND ENGINEERS REGISTERED IN MINNESOTA:

The State Designer Selection Board has been requested to select designer for the University of Minnesota. Design firms who wish to be considered for this project should submit proposals on or before 4:00 P.M., June 18, 1985, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

1. Six copies of the proposal will be required.
2. All data must be on 8½" × 11" sheets, soft bound.
3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.
4. The proposal should consist of the following information in the order indicated below:
 - a) Number and name of project.
 - b) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc.
 - c) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If the applicant chooses to list projects which are relevant in type, scale, or character to the project at hand, the person's role in the project must be identified.
 - d) A commitment to enter the work promptly and to assign the people listed in "C" above and to supply other necessary staff.
 - e) A list of design projects in process or completed in the three (3) years prior to the date of this request for agencies or institutions of the State of Minnesota, including the University of Minnesota, by the firm(s) listed in "b" together with the approximate fees associated with each project.
 - f) A section of not more than fourteen (14) faces containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described.

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

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

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
- b) A statement certifying that your firm has a current certificate of compliance issued by the Commissioner of Human Rights; or
- c) A statement certifying that your firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months.

STATE CONTRACTS

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

- a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded.
- b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

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

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

7) PROJECT—6-85

**Clinical Research Facility
University of Minnesota**

PROJECT DESCRIPTION

The Clinical Research facility, located on Level 2 of the Masonic Cancer Center, is a self-contained medical research unit designed to optimize controlled medical investigation. Plans include expansion of all components of the program, upgrading the patient care area to meet life safety codes and renovation of the laboratory and dietary facilities.

SCOPE OF PROJECT

The firm selected must design the space based on the functional and space programs collectively defined by the department, and previous programming and architectural consultants employed by the University Hospitals.

The preliminary budget for this project is \$1.3 million dollars.

A. Inpatient Facility

This 10-bed component of the program occupies approximately 3,670 NSF. The space includes patient rooms as well as all necessary nursing unit support rooms.

B. Ambulatory Research Facility

This component of the program should be directly adjacent to the inpatient unit and includes approximately 1,300 NSF.

C. Research Facility

This component includes the renovation of three existing labs and the creation of a fourth lab. Total net square feet is 1,830.

D. Dietary Facility

This component of 1,440 NSF includes a food production area, dry and cold storage area, and patient dining room.

E. Administrative Facility

This office component includes approximately 1,640 NSF and will serve as a reception and administrative area.

DESIGNER SERVICES

The designer will be required to prepare in cooperation with the Owner's Building Advisory Committee for the Owner's approval, schematic design presentation proposals, design development drawings and specifications, construction drawings and specifications for public bidding. Construction phase services will include shop drawings reviews, construction observation and the production of a set of "as-built" drawings. The plan for redesign should include necessary changes to bring the building up to code. All plans will be subject to review by University code officials.

FEES

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

Questions concerning this project may be referred to Clinton Hewitt at 373-2250.

John D. Nagel, Chairman
State Designer Selection Board

State Retirement System

Actuarial Consultant Contract Available for the Two-Year Period Ending June 30, 1987

The Minnesota State Retirement System intends to engage the services of an "approved actuary" as defined in Minn. Stat. § 352.01, subd. 15, to perform the actuarial valuations required by Minn. Stat. ch. 356 each of the two years ending June 30, 1985 and 1986 to prepare and submit the reports required therein; to provide consulting and advisory services to the management on technical, policy or administrative problems and to provide actuarial cost estimates of plan amendments as requested.

Estimated Cost: \$100,000

Contact Person: Paul L. Groschen, 529 Jackson Street, St. Paul, Minnesota 55101, Telephone No. 612-296-2761

Final Submission Date: June 20, 1985

SUPREME COURT

Decisions Filed Friday, May 10, 1985

Compiled by Wayne O. Tschimperle, Clerk

C1-84-1957 Gregory Rice, Deceased, by Vikki Rice v. Penny's Supermarkets and Travelers Insurance Company, Relators. Workers' Compensation Court of Appeals.

In calculating the offset of government survivor benefits against dependency compensation pursuant to Minn. Stat. § 176.111, subd. 21 (1980), the compensation judge correctly combined the government survivor benefits received by the dependent children of the deceased employee with their allocated share of his average weekly wage at the time of injury, as adjusted pursuant to Minn. Stat. § 176.645 (1984). The Workers' Compensation Court of Appeals erred in concluding that the limitation imposed by section 176.111, subd. 21, was not applicable because the employee's unallocated average weekly wage at the time of an injury, as adjusted, after deduction of the government survivor benefits still exceeded the maximum dependency compensation available.

Reversed and remanded for reinstatement of the compensation judge's decision. Peterson, J.

C3-84-1961 Michael Grelson v. Olympic Wall Systems, Inc., and USF&G Insurance Company, Relators, Bec Bros., Inc., and Continental Western Insurance Company, Relators, Olympic Wall Systems and AID Insurance Company, Relators, and State Treasurer, Custodian of the Special Compensation Fund. Workers' Compensation Court of Appeals.

The compensation judge's finding of only 14% permanent partial pre-existing disability to the employee's arm is insufficient to support retroactive registration with the special fund despite one doctor's report of a 25% pre-existing disability.

Affirmed. Yetka, J.

C9-84-1768 Ben Lindell, Deceased, Relator, v. Oak Park Coop. Creamery and Western National Mutual Insurance Company, and Land O'Lakes, Self-Insured, Prudential Insurance Company of America, American Family Mutual Insurance Group. Workers' Compensation Court of Appeals.

Minn. Stat. § 176.111, subd. 21 (1982) requires that the total dependency compensation provided under section 176.111 combined with the total government survivor benefits received by the dependents of the deceased employee shall not exceed the unallocated weekly wage of the deceased employee at the time of the injury causing his death, as adjusted pursuant to section 176.645.

Affirmed in part, reversed in part, and remanded for recomputation of dependency compensation payable for the benefit of the dependent children. Kelley, J.

C8-82-1501, C0-83-305 Herbert M. Bond, Appellant, Respondent, Lynn L. Charlson, and Durance Corporation, Respondent, Appellant, and Beverly G. Scott Charlson. Carver County.

Where the record is devoid of evidence of duress, instructing the jury that it could find that duress prevented the formation of a contract requires a new trial in an action for damages for breach of a contract of employment.

A jury instruction that a violation of the anti-fraud provision of the securities act, Minn. Stat. § 80A.01 (1984), was an obstacle to the formation of a contract and could not be "waived" constitutes fundamental error requiring a new trial and the provision of an instruction in the language of the statutory preclusion.

A party may not recover damages based on breach of a contract and also damages based on rescission of that same contract.

Affirmed and remanded. Coyne, J.

ORDER FORM

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- _____ Annual subscription \$130.00
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Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

SENATE

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Contact: Senate Public Information Office
B29 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Contact: House Information Office
Room 8 State Capitol, St. Paul, MN 55155
(612) 296-2146

Legislative Reference Library
Room 111 Capitol

Interoffice