

85, June 10

STATE REGISTER

STATE OF MINNESOTA

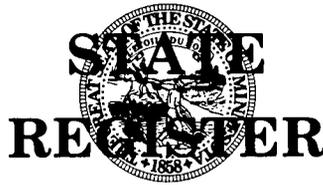
RECEIVED
JUN 10 1985
LEGISLATIVE REFERENCE LIBRARY
STATE CAPITOL
ST. PAUL, MN. 55155



VOLUME 9, NUMBER 50

June 10, 1985

Pages 2627-2690



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 | | | |
| 51 | Monday June 3 | Monday June 10 | Monday June 17 |
| 52 | Monday June 10 | Monday June 17 | Monday June 24 |
| SCHEDULE FOR VOLUME 10 | | | |
| 1 | Monday June 17 | Monday June 24 | Monday July 1 |
| 2 | Monday June 24 | Friday June 28 | Monday July 8 |

*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.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$3.25 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

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*.

Rudy Perpich
Governor

Marsha Storck
Editor

Sandra J. Hale
Commissioner
Department of Administration

Robin PanLener, Paul Hoffman,
Ruth Werness
Editorial Staff

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Debbie Kobold
Circulation Manager

Bonnie Karels
Support Staff

CONTENTS

MCAR AMENDMENTS AND ADDITIONS

Issues 40-50, inclusive 2630

MINNESOTA RULES AMENDMENTS AND ADDITIONS

Issues 40-50, inclusive 2631

PROPOSED RULES

Human Services Department

Proposed Rules Relating to Case Management Services to Persons with Mental Retardation 2632

Racing Commission

Proposed Emergency Rules Relating to Horse Medication 2647
Proposed Rules Governing Horse Racing Regulations; Minnesota Racing Commission 2651

ADOPTED RULES

Health Department

Adopted Temporary Rules Relating to Procedures for Assessment and Classification of Residents of Nursing Homes and Boarding Care Homes Participating in the Medical Assistance Program 2658

Health Department

Health Systems Division

Adopted Rule Defining Individual Permanent Medical Record 2659

Human Services Department

Adopted Rules Relating to Nursing Home Payment Rate Determination 2659
Adopted Temporary Rules Relating to Nursing Home Payment Rate Determination 2669

Nursing Board

Adopted Rules Relating to Licensure 2673

OFFICIAL NOTICES

Administration Department

Cable Communications Board

Recommendations Accepted for Nominees for a Board of Directors General Public Members for a VHF Channel 6 Non-Profit Corporation 2673

Energy and Economic Development Department

Energy and Economic Development Authority

Public Hearing on Proposed Project and Issuance of Bonds Under Minnesota Statutes, Chapter 116M, Exclusive—Equity Investors of Crookston, Incorporated 2674
Public Hearing on Proposed Project and Issuance of Bonds Under Minnesota Statutes, Chapter 116M, Exclusive—Hastings 2674

Energy and Economic Development Department

Financial Management Division

Availability of Issuance Authority in Competitive Pool 2675

Human Services Department

Outside Opinion Sought Concerning Proposed Licensing Standards for Supportive Living Residences 2676

Labor and Industry Department

Correction to Prevailing Wage Rates 2676

Metropolitan Council

Public Hearing on Amendments to Part 1, Water Resources Management Development Guide 2676
Review Schedule—Amendment to Recreation Open Space Capital Improvement Program 2677
Review Schedule—Environmental Assessment Worksheet for Metro Plant Ash Disposal and Park Development 2678

Secretary of State's Office

Notice of Vacancies in Multi-Member State Agencies 2678

Transportation Department

Petition of Swift County for a Variance from State Aid Standards for Bridge Width 2679

Vocational Technical Education State Council

Notice of Meeting 2679

Waste Management Board

Outside Opinion Sought Concerning Amendment of Rules Governing the Hazardous Waste Reduction Grants Program 2680

STATE CONTRACTS

Administration Department

Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding 2681

Corrections Department

Minnesota Correctional Facility—Lino Lakes

Request for Proposals for Evaluation of Inmates on Psychotropic Medications 2683

Higher Education Coordinating Board

Request for Proposals for Graphic Arts and Design Services 2683

Human Services Department

Moose Lake State Hospital

Request for Proposals for Medical Services—Psychiatry, Radiology, and Physical/Internal Medicine 2683

Human Services Department

St. Peter State Hospital

Request for Proposals for Medical Services—Psychiatry, Physical Therapy, Anesthesiology, Sign Language, and Psychology 2684

Iron Range Resources and Rehabilitation Board

Request for Proposals from Minnesota Advertising and Public Relations Firms 2685

Metropolitan Council

Request for Proposals on the Hennepin County Resource Recovery Environmental Impact Statement 2685

State Designer Selection Board

Request for Proposals for State Project 2685

State University System

Request for Proposals for Audit Services 2687

SUPREME COURT

Decisions of the Supreme Court Filed Friday, May 31, 1985 2687

NOTICE

How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION also.

The PROPOSED RULES section contains:

- Calendar of public hearings on proposed rules.
- Proposed new rules (including notice of hearing and/or notice of intent to adopt rules without a hearing).
- Proposed amendments to rules already in existence in the Minnesota Rules.
- Proposed emergency rules.
- Withdrawal of proposed rules (option; not required).

The ADOPTED RULES section contains:

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

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

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

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

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

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

The listings are arranged in the same order as the table of contents of the *Minnesota Rules 1983*.

MCAR AMENDMENTS AND ADDITIONS

TITLE 12 SOCIAL SERVICE

Part 2 Public Welfare Department

(now Human Services)

12 MCAR §§ 2.04601-2.04606 [Emer] (extended) 2177

MINNESOTA RULES AMENDMENTS AND ADDITIONS

BOARD OF ACCOUNTANCY

1100.3600 (proposed) 2511

OFFICE OF ADMINISTRATIVE HEARINGS

1400.0250-.1200 (adopted) 2276
 1400.0250-.1200 [Errata] 2497
 1400.5100; .5200; .5250; .5275; .5300; .5400; .5500;
 .5600; .5700; .5800; .5900; .5950; .6000; .6100; .6200;
 .6350; .6400; .6500; .6550; .6600; .6700; .6800; .6900;
 .7000; .7050; .7100; .7200; .7300; .7400; .7500; .7600;
 .7700; .7800; .7900; .8000; .8100; .8200; .8300 (adopted) 2282

DEPARTMENT OF AGRICULTURE

1545.3350 (adopted) 2341

DEPARTMENT OF COMMERCE

2700.2100; .2200; .2300 (proposed repeal) 2566
 2700.3200 (proposed) 2565
 2735.0100-.0500 (proposed) 2144
 2740.0100; .1100; .1200; .1600; .2100; .2400; .2500;
 .2600; .2900; .3100; .3600; .3700; .3900; .4400; .5200;
 .9904; .9909; .9914; .9919; .9924; .9929; .9934; .9939;
 .9944; .9949; .9954; .9959; .9964; .9979;
 .9991-.9993 (proposed) 2146
 2767.0100-.0900; 2768.0950 [8 SR 2765] (adopted) 2580
 2791.0100 (proposed) 2511
 2875.1590 (withdrawn) 2170

DEPARTMENT OF ECONOMIC SECURITY

3300.0100; .0300; .0400; .0500; .0700 (adopted) 2526

STATE BOARD OF EDUCATION

3500.0605 (proposed) 2328
 3505.2510 (withdrawn) 2170
 3505.3300 (adopted) 2402

ENERGY, PLANNING AND DEVELOPMENT

Energy Division

4155.0100-.0180 (proposed) 2424
 4170.4105; .4110 [Emer] (extended) 2441
 4170.4105; .4110 (proposed) 2437
 4215.1400; .2100; .2200; .2450; .2750; .4700;
 .4901 (proposed) 2523

DEPARTMENT OF HEALTH

4605.7000-.7800; 4735.0100-.0300 [8 SR 2690]
 (adopted) 2584
 4615.0500 (proposed) 2365
 4642.1000 (adopted) 2659
 4655.6810-.6830 (proposed) 2330
 4656.0010-.0070 [Temp] (proposed) 2245
 4656.0010-.0070 [Temp] (adopted) 2658

HIGHER EDUCATION COORDINATING BOARD

4830.0300 (adopted) 2341
 4850.0010-.0018 [Emer] (second notice) 2400

MN HOUSING FINANCE AGENCY

4900.0293 (adopted) 2174
 4900.0640 (adopted) 2174
 4900.1200; .1210 (proposed) 2400
 4900.1700-.1703 (proposed) 2472

DEPARTMENT OF HUMAN RIGHTS

5000.0100; .0400; .0510; .0600; .0700;
 .0800; .0810; .1100; .1200; .1300; .2210;
 .2220; .2230; .2240 (proposed) 2248

5000.0100; .0400; .0510; .0600; .0700;
 .0800; .0810; .1100; .1200; .1300; .2210;
 .2220; .2230; .2240 (second notice) 2438

DEPARTMENT OF LABOR AND INDUSTRY

5205.0010 [standards] (proposed) 2171
 5205.0010 [standards] (adopted) 2585
 5220.1400 (proposed) 2172

MN MUNICIPAL BOARD

6000.0100; .0110; .0200; .0400; .0500; .0600; .0700; .0800;
 .0900; .1000; .1150; .1200; .1310; .1400; .1510; .1600;
 .1700; .1900; .2210; .2500; .2600; .3000; .3100; .3400
 (adopted) 2442

DEPARTMENT OF NATURAL RESOURCES

6100.5700 (withdrawn) 2474
 6105.0340 (adopted) 2476
 6105.0911 (adopted) 2341

BOARD OF NURSING

6310.0200-.2200; .5100-.7200 (adopted) 2673

BOARD OF PEACE OFFICER STANDARDS AND TRAINING

6700.1100; .1101; .1200; .1201 (proposed) 2576

POLLUTION CONTROL AGENCY

7001.0650; .0135; .0214 (proposed) 2333

Solid & Hazardous Waste Division

7042.0010-.0060 (adopted) 2472
 7045.0125; .0142 (adopted) 2613
 7046.0010-.0050 (adopted) 2341

BOARD OF PSYCHOLOGY

7200.1700 (proposed) 2474

DEPARTMENT OF PUBLIC SAFETY

Driver and Vehicle Services Division

7411.7100; .7200; .7400; .7500; .7600; .7700 (adopted) 2383

Fire Marshal Division

7510.6200; .6300; .6350; .6910 (adopted) 2383

RACING COMMISSION

Chap. 7869; 7870; 7872; 7873; 7875; 7876; 7877;
 7878; 7883; 7884; 7890; 7891; 7892; 7895;
 7897; 7899 (adopted) 2527
 7890.0100-.0150 [Emer] (proposed) 2647
 7897.0100; .0120; 7873.0550; 7874.0100; 7879.0100;
 .0200; .0300; 7895.0100; .0110 (proposed) 2651

REVENUE DEPARTMENT

Property Equalization Division

8100.0300 (proposed) 2374
 8105.0400 [Emer] (proposed) 2336

Alcohol, Tobacco and Special Taxes Division

8121.0100-.0500 (adopted) 2298

SECRETARY OF STATE

8260.0100; .0200 (proposed) 2173

SMALL BUSINESS FINANCE AGENCY

8300.0050; .0100; .3011; .3012; .3013; .3020; .3021; .3022;
 .3023; .3024; .3025; .3026; .3030; .3031; .3032; .3033; .3034;
 .3039; .3040; .3041; .3042 (proposed) 2513
 8300.3000-.3004 [Emer] (extended) 2383
 8300.3060-.3070 [Emer] (adopted) 2527
 8300.4100-.4112 [Emer] (adopted) 2381
 8300.5000-.5006 [Emer] (proposed) 2243

MINNESOTA RULES AMENDMENTS AND ADDITIONS

SOIL AND WATER CONSERVATION BOARD

8400.0100; .0200; .0300; .0400; .0600; .0700; .0900;
.1000; .1100; .1200; .1300; .1400; .1405; .1500; .1600;
.1700; .1800; .1950; .2000; .2100; .2200; .2300; .2400;
.2500; .2600; .2700; .2705; .2800 [Amend] (adopted) 2439

WASTE MANAGEMENT BOARD

9200.6000-.6011 (proposed) 2271

DEPARTMENT OF PUBLIC WELFARE (Now HUMAN SERVICES)

9500.0031; .0051; .0071; .0081; .0091; .0111;
.0331-.0339; .0351-.0353 [Emer] (extended) 2175
9500.1450-.1475 [Emer] (extended) 2176
9505.0500-.0540 (adopted) 2296
9505.5000-.5105 (proposed) 2367

9505.5000-.5030 [Emer] (extended) 2176
9510.1020-.1140 [Emer] (extended) 2176
9525.0015-.0145 (proposed) 2632
9525.0015-.0145 [Emer] (extended) 2175
9525.1800-.1930 [Emer] (extended) 2178
9525.1850-.1870 [Emer] (adopted) 2441
9545.2000-.2040 (proposed) 2252
9546.0010-.0060 (proposed) 2255
9546.0010-.0060 [Temp] (adopted) 2669
9549.0050-.0059 [Temp] (proposed) 2259
9549.0010-.0080 (adopted) 2659
9550.0010-.0092 (proposed) 2566
9555.3410-.3412 [Emer] (extended) 2177
9555.3415 [Emer] (extended) 2175
9555.3417 [Emer] (extended) 2176

PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

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

Department of Human Services

Proposed Rules Relating to Case Management Services to Persons with Mental Retardation

Notice of Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Room 5, State Office Building, 435 Park Avenue, St. Paul, Minnesota, 55155 on July 10 (and July 11 if necessary) commencing at 9 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to George Beck, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415; telephone 612/341-7601, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in

PROPOSED RULES

Minnesota Statutes, section 14.50. The rule hearing is governed by Minnesota Statutes, section 14.01 to 14.56 and by Minnesota Rules, parts 1400.0200 to 1400.1200, (as amended by *State Register* publication April 8, 1985, cite 9 S.R. 2276 to 2282). Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9525.0015 to 9525.0145 set forth the responsibilities of county boards for providing case management services to persons with or who may have mental retardation, and governs the planning, development, and provision of other services to persons with mental retardation.

Proposed Minnesota Rules, parts 9525.0015 to 9525.0145 apply to county boards expending money for case management or other services for persons with or who might have mental retardation.

Proposed Minnesota Rules, parts 9525.0015 to 9525.0145 include sections on county board responsibilities, case management responsibilities, diagnosis of mental retardation, assessment of individual service needs, screening team responsibilities, development of individual plans, arrangement and authorization of services, service contracts, development of individual habilitation plans, appeals of case management and related services, quality assurance, service development and need determination, and rule enforcement.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256B.503 which gives the commissioner authority to promulgate rules implementing Minnesota Statutes, section 256B.092. The cost to local public bodies of implementing the proposed rule changes is estimated to be \$2,960,108 for the first two years following passage of the rule. See the methodology used in estimating this cost, attached to this Notice of Hearing.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to: Susan Canine, Department of Human Services, Mental Retardation Division, Fourth Floor, Centennial Building, St. Paul, Minnesota 55155, telephone 612/297-1241.

Additional copies will be available at the hearing. If you have any questions on the content of the rule amendments, contact Shirley Schue, Mental Retardation Division, telephone 612/297-4984.

NOTICE: Any person may request notification of the date on which the Administration Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. 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 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 agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument 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 agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

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

May 9, 1985

Leonard W. Levine, Commissioner
Department of Human Services

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

PROPOSED RULES

Fiscal Impact Statement of Parts 9525.0015 to 9525.0145, Which Govern County Board Responsibilities for Providing Case Management Services to Persons with Mental Retardation

The purpose of this statement is to identify the additional costs of implementing parts 9525.0015 to 9525.0145 and to explain the strategy the department has developed to assist the county boards in financing the additional costs of implementing these rule parts.

The provisions of parts 9525.0015 to 9525.0145 which have fiscal impact are the provisions governing staff qualifications, training requirements, monitoring of services provided, and the overall amount of case management effort necessary to comply with the rule parts. County boards that have a variance approved under parts 9525.0015 to 9525.0145 [Emergency] have until July 1, 1987 to achieve full compliance with parts 9525.0015 to 9525.0145.

The staff level required for minimum compliance with parts 9525.0015 to 9525.0145 is projected at one social worker (not including case aides) for every fifty persons with mental retardation or approximately 32 hours of case management services per year for each person. This ratio is consistent with the ratio of social workers to clients with mental retardation which the department has implemented in state hospitals in response to the Welsch v. Levine Consent Decree. Moreover, many counties which were surveyed indicated that they could achieve minimum compliance with case management provisions of parts 9525.0015 to 9525.0145 if they had case manager:client ratios of 1:45 to 1:55, especially because case aides are allowed to handle some of the required activities of these rules, and social workers in state hospitals are continuing to assist the county case managers in performing necessary case management activities for persons residing in state hospitals.

The number of additional case managers required to comply with parts 9525.0015 to 9525.0145 was projected based on a survey of nineteen selected counties or approximately 20% of Minnesota's counties. The sample of counties was stratified based on the following dimensions: metro/non-metro, high/medium/low utilization of public and private ICF/MR, poverty as measured by high/medium/low welfare caseloads proportionate to population, and state hospital catchment area. These counties were asked to estimate the caseload of persons with mental retardation for whom they were financially responsible residing in state hospital and various community programs located in and outside their county, and the amount of case management effort (in terms of F.T.E.) including social workers and case aides providing case management services to persons with mental retardation. The differences between the existing levels of case management for the nineteen counties and the 1:50 ratio required to comply with parts 9525.0015 to 9525.0145 were calculated and applied to statewide estimates of the number of persons with mental retardation to determine the additional costs associated with meeting the requirements in parts 9525.0015 to 9525.0145. The costs are summarized in the following table.

| | <u>F.Y. 86</u> | <u>F.Y. 87</u> | <u>Total</u> |
|---|----------------|----------------|--------------|
| 1. Additional Case Managers FTE Required | 55 by 7/1/86 | 110 by 7/1/87 | |
| 2. Annual Cost Per Case Manager | \$29,509 | \$30,896 | |
| 3. Total Costs | \$811,497 | \$2,548,920 | \$3,360,417 |
| —Funded under waiver | 101,437 | 318,615 | 420,052 |
| —Funded under social services | 710,060 | 2,230,305 | 2,940,365 |

The total costs by government source are projected as follows:

| | <u>F.Y. 86</u> | <u>F.Y. 87</u> | <u>Total</u> |
|----------------|----------------|----------------|--------------|
| 1. Federal | \$ 53,964 | \$ 169,503 | \$ 223,467 |
| 2. State | \$ 42,705 | \$ 134,137 | \$ 176,842 |
| 3. County/CSSA | \$714,828 | \$2,245,280 | \$2,960,108 |

The federal and state shares are the costs for case management projected to be paid under the home and community-based waiver, which are included in the Governor's 86-87 Biennial Budget Request. The county share includes 4.7 percent of the cost of case management services funded under the waiver and 100 percent of the costs of case management services funded under social service funds. (Combination of state and county dollars)

To assist the county boards in financing these additional costs the Department of Human Services intends to submit to the federal Health and Human Services (HHS) an amendment to the state medical assistance administrative cost allocation plan which, if approved, would allow county boards to claim and receive additional federal reimbursement for the provision of case management to all persons with mental retardation who receive services funded by the medical assistance program. If HHS approves the state plan amendment, counties will be able to receive federal reimbursement for 50% of the costs of providing case management services for an estimated 8,000 persons with mental retardation who are receiving services reimbursed by the medical assistance program

(persons residing in state hospitals, community ICF's/MR or nursing homes, or receiving home and community-based services). It is estimated that currently counties pay over three million dollars each year to provide case management services to these persons. This proposal would provide an estimated additional 1.5 million dollars of federal reimbursement to the county boards each year. The 1.5 million annual savings over current expenditure, could be used to offset the additional costs of compliance with these rule parts. Should the Amendment to the State Plan be accepted by the federal government, the cost would be the following:

| | <u>F.Y. 86</u> | <u>F.Y. 87</u> | <u>Total</u> |
|-------------------------------------|----------------|----------------|--------------|
| Additional County Costs due to rule | \$710,060 | \$2,230,305 | \$2,940,365 |
| Additional Federal MA Dollars | 1,500,000* | 1,500,000 | 3,000,000 |
| Net impact to county | + 789,940 | + 730,305 | + 59,635 |

*Assumes counties can claim beginning 7/1/85.

Rules as Proposed (all new material)

9525.0015 DEFINITIONS.

Subpart 1. Scope. The terms used in parts 9525.0015 to 9525.0145 have the meanings given them in this part.

Subp. 2. Assessment. "Assessment" means the act of determining, under part 9525.0065, a person's need for services by identifying and describing the person's skills and behaviors, and the environmental, physical, medical, and health factors which affect development or remediation of the person's skills and behaviors.

Subp. 3. Advocate. "Advocate" means an individual who has been authorized, in a written statement by the person with or who might have mental retardation or by that person's legal representative, to help the person with or who might have mental retardation understand and make choices in matters related to identification of needs and choice of services in parts 9525.0015 to 9525.0145.

Subp. 4. Case management services. "Case management services" means identifying the need for, seeking out, acquiring, authorizing, and coordinating services to persons with mental retardation; and monitoring the delivery of the services to, and protecting the rights of, the persons with mental retardation. These services are provided by an individual designated by the county board under part 9525.0045.

Subp. 5. Case manager. "Case manager" means the individual designated by the county board under part 9525.0035 to provide case management services.

Subp. 6. Commissioner. "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 7. Contract. "Contract" means a legally enforceable agreement entered into by a county board or its designated representative and a provider, or a provider and a subcontractor, that sets forth the rights and responsibilities of the parties.

Subp. 8. County board. "County board" means the county board of commissioners for the county of financial responsibility or its designated representative.

Subp. 9. County of financial responsibility. "County of financial responsibility" has the meaning given it in Minnesota Statutes, section 256B.02, subdivision 3.

Subp. 10. Day training and habilitation services. "Day training and habilitation services" means health and social services provided to a person with mental retardation by a licensed provider at a site other than the person's place of residence unless medically contraindicated and documented as such in the individual service plan. The services must be designed to result in the development and maintenance of life skills, including:

A. self-care, communication, socialization, community orientation, emotional development, cognitive development, or motor development; and

B. therapeutic work or learning activities that are appropriate for the person's chronological age.

Day training and habilitation services are provided on a scheduled basis for periods of less than 24 hours each day.

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

PROPOSED RULES

Subp. 11. Department. “Department” means the Minnesota Department of Human Services.

Subp. 12. Home and community-based services. “Home and community-based services” means the following services for persons with mental retardation that are authorized under United States Code, title 42, sections 1396, et seq. and authorized in the waiver granted by the United States Department of Health and Human Services:

- A. case management;
- B. respite care;
- C. homemaker services;
- D. in-home family support services;
- E. supported living arrangements for children;
- F. supported living arrangements for adults;
- G. day habilitation; and

H. minor physical adaptations to the home as defined in part 9525.1860 [Emergency]. These services are reimbursable under the medical assistance program for as long as the waiver from the United States Department of Health and Human Services is in effect in Minnesota.

Subp. 13. Host county. “Host county” means the county in which the services set forth in a person’s individual service plan are provided.

Subp. 14. Individual habilitation plan. “Individual habilitation plan” means the written plan developed under part 9525.0105 that provides services to a person.

Subp. 15. Individual service plan. “Individual service plan” means the written plan developed under part 9525.0085.

Subp. 16. Interdisciplinary team. “Interdisciplinary team” means a team composed of the case manager, the person with mental retardation, the person’s legal representative and advocate, if any, and representatives of all providers providing services set forth in the individual service plan.

Subp. 17. Intermediate care facility for the mentally retarded or ICF/MR. “Intermediate care facility for the mentally retarded” or “ICF/MR” means a program licensed to provide services to persons with mental retardation under Minnesota Statutes, section 252.28, and a physical plant licensed as a supervised living facility under Minnesota Statutes, chapter 144, which together are certified by the Minnesota Department of Health as an intermediate care facility for the mentally retarded. Unless otherwise stated, this definition includes state-operated and community-based facilities.

Subp. 18. Least restrictive environment. “Least restrictive environment” means an environment in which:

A. The provider or employees or subcontractors of the provider are available to provide the type, quantity, and frequency of services necessary to achieve the results set forth in a person’s individual service plan.

B. The physical plant and the scheduling of the provider and employees or subcontractors of the provider are designed or modified to promote the independence of the person with mental retardation and to limit the physical assistance given by the provider or employees or subcontractors to the tasks or parts of tasks that the person with mental retardation could not accomplish without physical assistance or verbal instructions

C. The amount of supervision, physical control, and limits on decision making imposed by the provider and employees or subcontractors of the provider is limited to the level required to ensure that persons with mental retardation are not subject to unnecessary risks to their health or safety and do not subject others to unnecessary risks.

D. Services are designed to increase interactions between persons with mental retardation and persons who do not have disabilities by using facilities, services, and conveyances used by the general public.

E. The daily, monthly, and annual schedule of the person receiving services closely approximates that of the general public.

F. The physical surroundings, methods of interaction between the person and the provider and employees or subcontractors of the provider, and the materials used in training are appropriate for the person’s chronological age and adaptive behavior level.

Subp. 19. Legal representative. “Legal representative” means the parent or parents of a person, with or who might have mental retardation, who is under 18 years of age; or a court-appointed guardian or conservator who is authorized by the court to make decisions about services for a person of any age, with or who might have mental retardation.

Subp. 20. Need determination. “Need determination” means the determination under part 9525.0135 of the need for and the program, type, location, and size of licensed services, except foster care, for persons with mental retardation.

Subp. 21. Person with mental retardation. “Person with mental retardation” means:

A. A person who has been diagnosed under part 9525.0055 as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior and who manifests these conditions before the person's 22nd birthday.

B. A person under 18 years of age who demonstrates significantly subaverage intellectual functioning concurrently with deficits in adaptive behavior, but for whom a licensed psychologist or licensed consulting psychologist determines that a diagnosis may not be advisable because of the person's age.

C. A person 18 years of age or older who has not been diagnosed as a person with mental retardation before the person's 22nd birthday and who, as the result of accident or physical trauma (excluding mental illness, chemical dependency, senility, and debilitating conditions such as muscular dystrophy and multiple sclerosis), has been diagnosed as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior and, who requires services similar to those required by a person with mental retardation.

Subp. 22. Person who might have mental retardation. "Person who might have mental retardation" means a person that the case manager has reason to believe has mental retardation who is undergoing diagnosis to determine if that person is a person with mental retardation.

Subp. 23. Physical plant. "Physical plant" means the building or buildings in which a service is provided to a person with mental retardation and all equipment affixed to the building and not easily subject to transfer.

Subp. 24. Provider. "Provider" means a corporation, governmental unit, partnership, individual, or individuals licensed by the state, if a license is required, or approved by the county board, if a license is not required, to provide one or more services to persons with mental retardation.

Subp. 25. Public agency. "Public agency" means a public health nursing service established under Minnesota Statutes, section 145.12, a human services board established under Minnesota Statutes, section 402.04, a local board of health established under Minnesota Statutes, section 145.01, or a county board.

Subp. 26. Qualified mental retardation professional. "Qualified mental retardation professional" means a person who meets the qualifications in Code of Federal Regulations, title 42, section 442.401.

Subp. 27. Quarterly evaluation. "Quarterly evaluation" means a written summary prepared by the provider and submitted to the case manager, evaluating services actually provided, the extent to which services have resulted in achieving the goals and objectives of a person's individual habilitation plan, and whether services are being provided in accordance with the individual habilitation plan. The summary must also state whether any changes are needed in the person's individual service plan or individual habilitation plan.

Subp. 28. Redetermination of need. "Redetermination of need" means the biennial redetermination under part 9525.0135 of the need for and the program, type, location, and size of licensed services, except foster care, for persons with mental retardation.

Subp. 29. Regional service specialist. "Regional service specialist" means an individual, designated by the commissioner, who at the direction of the commissioner:

A. authorizes medical assistance payments for ICF/MR and home and community-based services for eligible persons with mental retardation;

B. serves on screening teams as a qualified mental retardation professional at the request of the county board;

C. provides training and assistance to county boards, case managers, and providers in technical matters related to the development and provision of services for persons with mental retardation; and

D. assists case managers in developing and planning services for persons with mental retardation.

Subp. 30. Residential service. "Residential service" means shelter, food, and training in one or more of the following self-care, communication, community living skills, social skills, leisure and recreation skills, and behavior management provided by a provider licensed by the state, if a license is required, or approved by the county board if a license is not required, to provide these services.

Subp. 31. Screening team. "Screening team" means the team established under Minnesota Statutes, section 256B.092, subdivision 7 to evaluate a person's need for home and community-based services. The screening team shall consist of the case

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

PROPOSED RULES

manager, the person with mental retardation, a parent or guardian as appropriate to the person with mental retardation's legal status, and a qualified mental retardation professional.

Subp. 32. Service. "Service" means a planned activity designed to achieve the results specified in an individual service plan.

9525.0025 APPLICABILITY AND PURPOSE.

Subpart 1. Applicability. Parts 9525.0015 to 9525.0145 set forth the responsibilities of county boards for providing case management services to persons with or who might have mental retardation, and governs the planning, development, and provision of other services to persons with mental retardation.

Parts 9525.0015 to 9525.0145 shall not be construed as requiring expenditure of money not available to county boards for case management and other services for persons with or who might have mental retardation. Money expended for case management and other services for persons with or who might have mental retardation must be expended in accordance with parts 9525.0015 to 9525.0145.

Subp. 2. Purpose. The purpose of parts 9525.0015 to 9525.0145 is to ensure that persons with mental retardation receive services that are designed and arranged to meet their assessed individual service needs in the least restrictive environment and to ensure that services are developed and provided in a cost-effective manner.

County boards are authorized and required to determine the adequacy and quality of services provided in meeting the person's needs based on the cost and effectiveness of the services. Only services identified as needed in the individual service plan should be provided or paid for.

9525.0035 COUNTY BOARD RESPONSIBILITIES.

Subpart 1. Provision of case management services. The county board shall provide case management services in accordance with parts 9525.0015 to 9525.0145 to all persons with or who might have mental retardation who reside in the county at the time they apply for services. Case management services may be provided directly by the county board or under a contract between the county board and another county board or a provider of case management services.

Subp. 2. Designation of case manager. Within ten working days after receiving an application for service, the county board shall designate a case manager for the person who applied for services and send a written notification of the name, telephone number, and location of the designated case manager to the person who applied for services, and the person's legal representative and advocate, if any.

Subp. 3. Staff qualifications. Except as provided in item C, staff providing case management services to persons with mental retardation must meet the requirements in item A or B.

A. The county board shall employ at least one case manager who has at least a bachelor's degree in a field related to the education and treatment of persons with mental retardation and one year of experience in the education and treatment of persons with mental retardation.

B. Other persons employed by the county may assist in providing case management services under the supervision of a case manager who meets the qualifications in item A if they have completed 40 hours of training in case management and the education and treatment of persons with mental retardation.

C. Between the effective date of parts 9525.0015 to 9525.0145 and January 1, 1987, the county board may request a variance to the requirements in item A to hire a case manager who meets the education requirement but does not meet the experience requirement. The variance request must be submitted in writing to the commissioner and must include a description of 20 or more hours of training in case management and the education and treatment of persons with mental retardation which will be completed by the case manager within 12 months of the date of hiring. The commissioner shall grant the variance if the person for whom the variance is requested meets the educational requirements in item A and the variance request meets the requirements in this item.

Subp. 4. Case manager training. Each case manager shall complete at least 20 hours of training and continuing education in case management and mental retardation services each calendar year. The county board shall maintain a written record of all training and continuing education completed by all case managers employed by the county board.

Subp. 5. Purchase of case management services. The county board shall not purchase case management services for a person with or who might have mental retardation from a provider of other services for that person. This provision does not apply when the county board provides the services or when the services are provided by another public agency, if the county board or other public agency providing case management and other services ensures that administration of the case management services is separate from the administration of any other service for the person with mental retardation.

Subp. 6. Termination of case management services. The county board may terminate case management services when:

A. the person with mental retardation or the person's legal representative makes a written request that services be terminated;

- B. the person with mental retardation dies;
- C. a licensed psychiatrist, licensed psychologist, or licensed consulting psychologist determines that the person is not a person with mental retardation in accordance with part 9525.0055;
- D. the person refuses the services offered; or
- E. the case manager finds that case management services are no longer needed, based on the annual review of the person's individual service plan.

9525.0045 CASE MANAGEMENT RESPONSIBILITIES.

Subpart 1. Provision of services. The case manager, upon designation by the county board, shall immediately begin to provide case management services to the person who applied for services or for whom the legal representative applied for services, and shall continue to provide case management services until case management services are terminated under part 9525.0035, subpart 6. The county board shall not provide or arrange for services to be provided to a person with or who might have mental retardation until a case manager has been designated, and services must not continue after case management services have been terminated under part 9525.0035, subpart 6.

Subp. 2. Minimum case management services. The case manager shall ensure that a diagnosis is completed and reviewed under part 9525.0055. The diagnosis must be completed within 35 working days following the date that the person or the person's legal representative applied for the services. If the person is determined to be a person with mental retardation, the case manager shall:

- A. provide or obtain an assessment of individual service needs under part 9525.0065 and conduct the reassessment of service needs required in part 9525.0065, subpart 2;
- B. convene and serve as chairperson of a screening team under part 9525.0075 if the case manager determines, based on the results of the assessment, that the person might be in need of the level of care provided by an ICF/MR, or that the person might require that level of care within one year;
- C. develop an individual service plan under part 9525.0085 based on the results of the assessment required in item A and the screening team findings, if any;
- D. ensure that the services described in the individual service plan are provided or developed in the type, quantity, and frequency specified in the individual service plan;
- E. monitor services provided to the person with mental retardation at least once every six months to ensure that the services are provided in accordance with the person's individual service plan. Monitoring shall include:
 - (1) visiting the person;
 - (2) visiting the service site of the day training and habilitation service and the residential service when the services are being provided;
 - (3) reviewing the provider's records and reports;
 - (4) observing the implementation of the person's individual service plan and individual habilitation plan;
 - (5) compiling semiannual evaluations of the results of the services provided; and
 - (6) reporting to the county board if a provider is not providing services as specified in the individual service plan and the individual habilitation plan;
- F. terminate services if an annual review of the person's individual service plan indicates that the services are no longer needed;
- G. convene and serve as chairperson of the interdisciplinary team and coordinate the development of the individual habilitation plan; and
- H. authorize services under subpart 3.

Subp. 3. Authorization of services. Before a service may be provided under an individual service plan the case manager must authorize the service. The case manager shall not authorize services other than those set forth in a person's individual service plan, except in an emergency, and then only for the duration of the emergency. If an emergency occurs, the case manager shall, within ten

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

PROPOSED RULES

working days, review the individual service plan and the cause of the emergency to determine whether the individual service plan should be modified as a result of the emergency. Modifications to the individual service plan must be made in accordance with part 9525.0085, subpart 5.

Subp. 4. Termination of case management duties. A case manager retains the duties in subparts 2 and 3 until the responsibility of the county board is terminated under part 9525.0035, subpart 6, or until the county board designates another case manager under part 9525.0035, subpart 2. When another case manager is designated, the person with mental retardation, the legal representative and the advocate, if any, and all providers providing services to the person must be notified, in writing, within five working days of the name, telephone number, and location of the new case manager.

9525.0055 DIAGNOSIS.

Subpart 1. Initial diagnosis. Items A to D are required to make a diagnosis of mental retardation.

A. A licensed psychiatrist, licensed psychologist, or licensed consulting psychologist must determine that the person has significantly subaverage intellectual functioning. "Significantly subaverage" means performance which is two or more standard deviations from the mean or average of a standardized test that measures intellectual functioning.

B. A psychiatrist, licensed psychologist, or licensed consulting psychologist must determine that the person has deficits in adaptive behavior. Deficits in adaptive behavior must be determined through the use of scales of adaptive behavior, or by a combination of test data, observations, and the use of all available sources of information regarding the person's behavior which indicate the effectiveness or degree with which the person meets the norm of personal independence and social responsibilities of the person's chronological age group and cultural peer group.

C. A social worker or a public health nurse who is experienced in working with persons with mental retardation must prepare a written report on any social, familial, physical, health, functional, adaptational, or environmental factors that might have contributed to the person's mental retardation.

D. A licensed physician must conduct a medical examination of the person including an examination of vision, hearing, seizure disorders, and physical disabilities.

The documentation for items A to C must be dated no more than 90 days before the date when the initial individual service plan is written. The documentation for item D must be dated no more than 12 months before the date when the individual service plan is written.

Subp. 2. Review of diagnosis. Except as provided in subpart 3, the case manager shall conduct a review of the diagnosis at least every three years. This review must include a review of the documentation of the initial diagnosis in subpart 1, and any components in subpart 1, items A to D, that the case manager determines need to be reevaluated. The case manager shall provide or obtain any assessments required to complete a review of the diagnosis.

Subp. 3. Exception. If a person with mental retardation has an initial diagnosis of mental retardation which has been confirmed twice in accordance with subparts 1 and 2 since the person's 18th birthday, the review of the diagnosis required in this part must be conducted at least once every six years.

9525.0065 ASSESSMENT OF INDIVIDUAL SERVICE NEEDS.

Subpart 1. Assessment. Each person determined to be a person with mental retardation based on the diagnosis required in part 9525.0055 shall receive an assessment to determine the services needed by the person. The assessment must be conducted under the supervision of a qualified mental retardation professional.

The assessment of individual service needs must address the following areas:

- A. medical status and ongoing health needs;
- B. physical development;
- C. intellectual functioning;
- D. social skills;
- E. self-care skills;
- F. communication skills;
- G. community living skills;
- H. vocational skills;
- I. physical and social environments; and
- J. legal representation.

Information collected by conducting assessments in items A to J may be supplemented by information from persons who know the person with mental retardation and other sources.

Subp. 2. Reassessment. The case manager, in consultation with the person with mental retardation, and the person's legal representative and advocate, if any, shall annually determine which of the areas in subpart 1 should be reassessed. The case manager shall provide or obtain a reassessment of the person's need for services in those areas. The case manager shall also obtain a medical assessment of the person's ongoing health needs to be used in the annual reassessment. The medical evaluation must be conducted no more than 90 days before the date of the annual individual service plan review conducted under part 9525.0085.

The annual reassessment of the person's need for services must be completed before the date of the annual individual service plan review required in part 9525.0085. This subpart shall not prohibit more frequent reassessments.

9525.0075 SCREENING TEAMS.

Subpart 1. Convening screening team. The case manager shall convene a screening team if the assessment conducted under part 9525.0065 indicates that the person with mental retardation might need the level of care provided by an ICF/MR or that the person might require the level of care provided by an ICF/MR within one year.

The screening team must be convened within 15 working days of the date that the assessment is completed under part 9525.0065 or within five working days of the date of an emergency admission to an ICF/MR. The case manager may convene a screening team at the time that the individual service plan is developed.

The case manager shall make every effort to convene the screening team at a time and place which allows for participation by all members of the screening team. The case manager shall maintain a written record of the screening team meetings. The written record must list all persons in attendance. If a member of the screening team is unable to attend the screening team meeting, the written record must state the reasons for the member's absence from the meeting.

Subp. 2. Notification of screening team meeting. The case manager shall notify the members of the screening team, the regional service specialist, and the advocate, if any, for the person with mental retardation before convening a screening team meeting. The regional service specialist and the advocate, if any, for the person with mental retardation may attend any meeting of the screening team. With the consent under Minnesota Statutes, section 13.05, subdivision 4 of the person with mental retardation or the person's legal representative, the case manager may invite other persons to attend the screening team meeting.

Subp. 3. Screening team review. The screening team shall review:

- A. the results of the diagnosis conducted under part 9525.0055;
- B. the results of the assessment conducted under part 9525.0065;
- C. the individual service plan, if any; and
- D. other data related to the person's eligibility and need for home and community-based services.

Subp. 4. Screening team findings. Upon review of the diagnostic and assessment data under subpart 3, the screening team shall:

- A. determine whether the person with mental retardation is presently in need of the level of care provided by an ICF/MR, or that the person will need the level of care provided by an ICF/MR within one year and can benefit from home and community-based services;
- B. identify the other services required to prevent or delay the need for the level of care provided by an ICF/MR, skilled nursing facility, or intermediate care facility and the source of payments for the required assistance, health services, or social services; and
- C. complete the waived services screening document on the form provided by the commissioner.

Subp. 5. Consumer choice. The person with mental retardation who is eligible for home and community-based services under parts 9525.1800 to 9525.1930 [Emergency] and the person's legal representative must be allowed to choose between the ICF/MR services and the home and community-based services recommended by the screening team and among the home and community-based services recommended by the screening team.

Subp. 6. Authorization of payment for ICF/MR and home and community-based services. Upon completion of the waived services screening document, the case manager must forward the completed document to the regional service specialist. The regional service specialist shall review the rates and authorize the payments for all home and community-based services funded

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

PROPOSED RULES

under the medical assistance program using the criteria in parts 9525.1800 to 9525.1930 [Emergency]. Payment for ICF/MR services shall not be made unless:

- A. the person for which the payment is requested is determined to be a person with mental retardation;
- B. an assessment of the person's individual service needs, conducted in accordance with part 9525.0065, documents that the person requires 24-hour supervision and treatment for medical, behavioral, or habilitation needs;
- C. all less restrictive and less costly alternative services have been considered and discussed with the person with mental retardation and the person's legal representative and advocate, if any; and
- D. payment for ICF/MR services has been approved by the commissioner through a regional service specialist.

Subp. 7. Use of screening team recommendations in commitment proceedings. When a person with mental retardation who has been referred to a screening team is the subject of commitment proceedings pursuant to Minnesota Statutes, chapter 253B, the screening team must make its recommendations and report available to the pre-petition screening unit in accordance with the Data Practices Act, Minnesota Statutes, chapter 13.

9525.0085 INDIVIDUAL SERVICE PLAN.

Subpart 1. Standards for developing individual service plan. An individual service plan must be developed and implemented for each person with mental retardation who applies for services or for whom the legal representative applies for services. The individual service plan must identify services needed by the person based on an assessment of the individual's need for services under part 9525.0065. The individual service plan must:

- A. specify how food and shelter will be provided;
- B. specify how the ongoing health care needs of the person will be met;
- C. provide for delivery of services in the least restrictive environment;
- D. be designed to result in day training and habilitation services appropriate to the person's chronological age, employment, and increased financial independence;
- E. be designed to result in increased participation in the community and interactions with the general public through use of support services and existing community agencies; and
- F. be designed to involve family, neighbors, and friends in providing services to the extent possible.

Subp. 2. Development of individual service plan. The case manager shall develop the individual service plan in consultation with the person with mental retardation, the person's parent or guardian, and the person's advocate, if any. With the consent under Minnesota Statutes, section 13.05, subdivision 4 of the person with mental retardation or the person's parent or guardian, the case manager may invite other persons to provide information to be used in developing the individual service plan.

The documentation used in developing the individual service plan must include:

- A. the results of the diagnosis conducted under part 9525.0055;
- B. the results of the assessment conducted under part 9525.0065; and
- C. any other information compiled by the case manager that will assist in developing the individual service plan.

Subp. 3. Content of individual service plan. The individual service plan must:

- A. describe the results of all assessment information used to identify the person's needs for services;
- B. identify the type, amount, and frequency of all services needed by the person with mental retardation;
- C. state the actions that will be taken to develop or obtain the services identified in item B that are not currently available. This item shall not be construed as requiring actions other than the actions stated in this item;
- D. state the long-range goals of each service to be provided and an anticipated date for attainment of those goals;
- E. state the annual goals and the expected results of each service to be provided that are related to the attainment of the long-range goals stated under item D; and
- F. identify any information that providers or subcontractors must submit to the case manager and the frequency with which the information must be provided.

Subp. 4. Standards for state hospital discharge planning. When an individual service plan calls for the discharge of a person with mental retardation from a state hospital, the individual service plan must conform to the standards for state hospital discharge planning established by the commissioner in Instructional Bulletins #84-55 and 84-55A which are incorporated by reference.

These documents are available for inspection at the Minnesota State Law Library, 117 University Avenue, Saint Paul, MN 55155

and are available through the minitex interlibrary loan system. The bulletins are not subject to frequent change. The documents have also been distributed to all county boards and human service boards.

Subp. 5. Annual review of individual service plan. At least annually, the case manager shall convene a meeting to review the individual service plan to determine whether the results called for in the individual service plan have been achieved and to determine if the plan requires modifications. The case manager shall make every effort to convene the meeting at a time and place which allows for participation by the person with mental retardation, the person's parent or guardian, the advocate, if any, and others who participated in the development of the individual service plan. The case manager shall maintain a written record of the meeting. The written record must list all persons in attendance. If the person with mental retardation, the person's parent or guardian, or the advocate cannot attend the meeting, the written record must state the reasons for their absence.

Any modifications to the individual service plan must be based on the results of a review of quarterly evaluations; reassessment information compiled under part 9525.0065, subpart 2; and any other information compiled by the case manager for the annual individual service plan review. The information must be completed and compiled no more than 90 days before the date of the annual individual service plan review.

9525.0095 PROVISION OF SERVICES.

Subpart 1. Arrangement of services. When residential, day training and habilitation services, or home and community-based services are required by an individual service plan, the case manager may arrange for the services by surveying existing providers to determine which providers, if any, are available to provide the services specified in the individual service plan, or a request for proposals may be developed by the county board for any or all of the specified services.

Subp. 2. Authorization of services. The case manager may only authorize a service if:

- A. the case manager has determined that the provider is able to provide the service or services in accordance with the individual service plan;
- B. the provider agrees, as a condition of the placement agreement, to participate in the interdisciplinary team;
- C. the provider agrees, as a condition of the contract, to provide the service in accordance with the individual service plan as a condition of the contract;
- D. the provider agrees to, as a condition of the contract, send quarterly evaluations to the case manager and the person with mental retardation or the person's legal representative;
- E. the person with mental retardation to be provided a day training and habilitation service or a residential service has met with the provider and visited the site where the services are to be provided or if a visit to the site is medically contraindicated for the person with mental retardation, the legal representative, if any, has visited the site;
- F. the case manager has informed the person's legal representative and advocate of the name of each proposed provider and has encouraged them to visit each site where the services will be provided;
- G. there is a contract between the provider and the host county; and
- H. if services are to be provided in a county other than the county of financial responsibility, the case manager has consulted with the host county and has received a letter of concurrence from the host county regarding provision of services.

Subp. 3. Contracts for services. An ICF/MR provider must have an approved provider agreement with the department before the ICF/MR provider can receive payment for services. A provider, except an ICF/MR provider, must have a contract developed in accordance with parts 9550.0010 to 9550.0092 as proposed at Vol. 9 *State Register*, Number 48, pages 2566-2576 (May 27, 1985) with the host county before the provider can receive payment for services. The county board of the county where the provider is located shall negotiate and administer host county purchase of service contracts in accordance with parts 9550.0010 to 9550.0092 as proposed at Vol. 9 *State Register*, Number 48, pages 2566-2576 (May 27, 1985) on behalf of other county boards requesting to purchase services from the provider.

The department is a third party beneficiary of any contract entered into by a county board and a provider, or a provider and a subcontractor, to provide services under this part. Each contract and subcontract must contain the following provision. If any contract does not contain the following provision, the provision shall be considered an implied provision of the contract.

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

PROPOSED RULES

“The provider acknowledges and agrees that the Minnesota Department of Human Services is a third-party beneficiary, and as such is an affected party under this contract. The provider specifically acknowledges and agrees that the Minnesota Department of Human Services has standing to and may take any appropriate administrative action or sue the provider for any appropriate relief in law or equity, including, but not limited to, rescission, damages, or specific performance, of all or any part of the contract between the county and the provider. The provider specifically acknowledges that the county and the Minnesota Department of Human Services are entitled to and may recover from the provider reasonable attorney’s fees and costs and disbursements associated with any action taken under this paragraph that is successfully maintained. This provision shall not be construed to limit the rights of any party to the contract or any other third party beneficiary, nor shall it be construed as a waiver of immunity under the Eleventh Amendment to the United States Constitution or any other waiver of immunity.”

Subp. 4. Subcontracts. If the provider subcontracts with another contractor to provide services under parts 9525.0015 to 9525.0145 the provider shall:

- A. have written permission from the host county to subcontract;
- B. ensure that the subcontract meets all the requirements in subpart 3; and
- C. ensure that the subcontractor performs fully the terms of the subcontract.

Subp. 5. Enforcement of contracts. The county board is responsible for enforcing the contracts entered into under parts 9525.0015 to 9525.0145. The county board may delegate the responsibility for enforcement of contracts in accordance with established county board policies.

9525.0105 DEVELOPMENT OF INDIVIDUAL HABILITATION PLANS.

Subpart 1. Convening of interdisciplinary team. Within 30 days after the case manager authorizes services under part 9525.0095, subpart 2, the case manager shall convene the interdisciplinary team to design an individual habilitation plan. With the consent under Minnesota Statutes, section 13.05, subdivision 4 of the person with mental retardation or the person’s legal representative, the case manager may invite other persons to attend the interdisciplinary team meeting but these persons shall not be voting members of the interdisciplinary team.

Subp. 2. Review of information. The interdisciplinary team shall review:

- A. the results of the diagnosis conducted under part 9525.0055;
- B. the results of the assessment conducted under part 9525.0065;
- C. the individual service plan developed under part 9525.0075;
- D. the report and recommendations of the screening team, if any; and
- E. any other information related to the delivery of services in the individual service plan and the development of the individual habilitation plan.

Subp. 3. Data privacy. Private data, as defined in Minnesota Statutes, section 13.02, subdivision 12 regarding the person with or who might have mental retardation must not be disseminated, used, or discussed at a meeting unless the person with or who might have mental retardation or the legal representative has given consent for dissemination, use, or discussion in accordance with Minnesota Statutes, section 13.05, subdivision 4. Confidential data, as defined in Minnesota Statutes, section 13.02, subdivision 3 must not be disseminated, used, or discussed except as authorized by Minnesota statute or federal law.

Subp. 4. Individual habilitation plan. The interdisciplinary team shall develop a single individual habilitation plan. The individual habilitation plan must integrate the services provided by all providers and subcontractors to the person with mental retardation to ensure that the services provided and the methods used by each provider and subcontractor are coordinated and compatible with those of every other provider and subcontractor. The individual habilitation plan must be designed to achieve the expected results specified in the individual service plan. The plan must include for each service:

- A. short-term objectives designed to result in the achievement of the annual goals of the individual service plan;
- B. the specific method of providing the service that is expected to result in the achievement of the short-term objectives of the individual habilitation plan;
- C. the name of the provider’s employee responsible for ensuring that services are implemented as set forth in the individual habilitation plan and that the services result in achievement of the short-term objectives;
- D. the measurable behavioral criteria that will be used to determine whether the service has resulted in achievement of the short-term objectives;
- E. the frequency with which the service will be provided; and
- F. the projected starting and completion dates for each short-term objective.

Subp. 5. Interim services. A person with mental retardation may receive the services set forth in the person's individual service plan for up to 30 days while an individual habilitation plan is being developed. The case manager shall terminate the services if an individual habilitation plan is not developed and implemented within 30 days of the date that the person began receiving services specified in the individual service plan.

Subp. 6. Review of individual habilitation plan. No less than once every 180 days the case manager shall evaluate the services provided under the individual habilitation plan by consulting with each provider, visiting the person with mental retardation, observing both the day training and habilitation services and residential services at a time when they are being implemented, and reviewing quarterly evaluations, records, and reports gathered by each provider. At least annually, the interdisciplinary team must be convened by the case manager to review the data described in subpart 2, determine if the results set forth in the individual habilitation plan have been achieved, and to make any amendments or modifications of the individual habilitation plan based on the interdisciplinary team's review of the information.

9525.0115 APPEALS OF CASE MANAGEMENT AND RELATED SERVICES.

Subpart 1. Notification of right to appeal. The case manager must notify the person with mental retardation, the legal representative, and the advocate, if any, in writing, of the person's right to appeal. The notice must be written in terms which can be understood by the person with mental retardation or the legal representative and the advocate.

Subp. 2. Appealable issues. A person with mental retardation or the person's legal representative may appeal a county board action or inaction inconsistent with parts 9525.0015 to 9525.0145 or the county board's variance request approved under parts 9525.0015 to 9525.0145 [Emergency] which results in a denial of services, failure to act with reasonable promptness, a suspension, reduction, or termination of services.

Subp. 3. Notice of action. The county board shall notify the person and the person's legal representative, if any, of any denial, suspension, reduction, or termination of services. Except as provided in subpart 4, the county board shall mail the notice to the person and the person's legal representative at least ten days before the effective date of the denial, suspension, reduction, or termination is appealable under subpart 2, the notice shall also state the person's right to appeal the proposed action.

Subp. 4. Exceptions to period of notice. The period of notice may be five days before the date of the proposed action if the county board has facts indicating probable fraud by the person or the person's legal representative in obtaining services and if the facts have been verified through secondary sources. The county board may mail a notice no later than the date of the action if:

A. the county board has factual information confirming the death of the person; or

B. the county board receives a written statement from the person indicating he or she no longer wishes to be eligible for medical assistance.

Subp. 5. Submittal of appeals. The person with mental retardation or the person's legal representative may appeal the issues in subpart 2 to the county board or to the commissioner. All appeals must be submitted in writing within 30 days of the date the notice is received. The advocate for the person with mental retardation or the parent of an adult with mental retardation if the adult does not have a legal representative may assist the person with mental retardation in bringing an appeal under this part.

Subp. 6. Appeal of action. All appeals of issues meeting the criteria under subpart 2 shall be heard and decided in accordance with Minnesota Statutes, section 256.045.

9525.0125 QUALITY ASSURANCE.

The case manager is authorized and required to monitor services on a regular basis to ensure that quality services are provided in a cost-effective manner in accordance with each person's individual service plan. The county board must cooperate with the commissioner in the commissioner's evaluation of case management services and other services provided to persons with mental retardation by making available to the commissioner all information compiled under parts 9525.0015 to 9525.0145 requested by the commissioner.

9525.0135 SERVICE DEVELOPMENT AND NEED DETERMINATION.

Subpart 1. Definition. As used in this part, "county board" means the county board of commissioners or the county welfare board as defined in Minnesota Statutes, chapter 393.

Subp. 2. Information to be considered. Development of a new service, or modification or expansion of an existing service, must be based on the county's community social services plan, community health plan, additional needs assessment information,

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

PROPOSED RULES

and the service needs identified in individual service plans of persons with mental retardation for whom the county board is financially responsible. The county board shall also consider the service needs of persons from other counties for whom the county board has agreed to be the host county.

Subp. 3. Need determination by county board. Based on the data in subpart 2, the county board shall identify the need for new services, modification or expansion of existing services, or services for which a change of ownership is proposed. This subpart shall apply to any service licensed by the commissioner, except foster care.

If the county board identifies that a new service or a service for which a change in ownership is proposed is needed or that the existing services need to be modified or expanded, the county board shall submit an application for a need determination to the commissioner. The application for a modification or an expansion or for a service for which a change of ownership is proposed may be modified to address only the items that will be changed due to the modification, expansion, or change of ownership. All other applications must include the information required in items A to I:

- A. the number, sex, and age of the persons to be served;
- B. a description of the services needed by the persons to be served as identified in individual service plans;
- C. a description of the proposed service;
- D. if the proposal is for a residential service, a description of the day training and habilitation or educational services that are available outside of the residence for the persons to be served;
- E. a description of the current residences of persons to be served and a statement of the number of persons to be served from each residential facility, foster home, or parental home;
- F. the identity of other counties that will use the service;
- G. a description of any financial limitations or funding restrictions that will affect the proposed service;
- H. an explanation of how this application relates to service needs identified under subpart 2; and
- I. the date of the county board action on the application.

Subp. 4. Review of county need determination. The county board shall establish written procedures for reviewing a determination of need made under subpart 3.

Subp. 5. Need determination by commissioner. The commissioner shall make the determination of the need for and the location, program, type, and size of the service proposed in the county's application. The commissioner may determine need for the service on a local, regional, or statewide basis. The commissioner shall consider the factors in items A to G in making a final need determination:

- A. the need to protect persons with mental retardation from violations of their human and civil rights;
- B. the need to assure that persons with mental retardation receive the full range of social, financial, residential, and habilitative services specified as needed in their individual service plans;
- C. whether services will be carried out in the least restrictive environment, and whether the size of the service relates to the needs of the persons to be served;
- D. whether persons receiving the proposed service will use health, medical, psychological, therapeutic, and other support services that are used by the general public;
- E. whether cost projections for the service are within the fiscal limitations of the state;
- F. whether the application is consistent with the state's plans for service distribution and development; and
- G. the distribution of and access to the services throughout the state.

Subp. 6. Notice of decision and right to appeal. Within 30 days of receipt of the application for need determination from the county board, the commissioner shall notify the county board of the commissioner's decision. The notice of the commissioner's decision must include notification of the county board's right to appeal the decision under subpart 9.

Subp. 7. Biennial redetermination of need. Every two years the county board shall submit to the commissioner a recommendation on the redetermination of need for each service located in the county which is licensed by the commissioner, except foster care.

The county board's recommendations must state whether the county board recommends continuation, continuation with modifications, discontinuation of the service, or, if the service is certified, decertification of the service. The recommendations of the county board must be based on the service needs of persons with mental retardation for whom the county is financially responsible, and for persons with mental retardation from other counties for whom the county board has agreed to serve as host county.

The commissioner shall make the redetermination of need for the service after considering the factors in subpart 3, and the recommendations of the county board. The decision of the commissioner is final. The commissioner shall notify the county board of the decision following receipt of the county board's recommendations.

Subp. 8. Effect of need determination or redetermination. If the county board or the commissioner determines that the service, modification, or expansion is not needed, the service, modification, or expansion shall not be paid for or reimbursed from federal or state money for services to persons with mental retardation. An application for licensure submitted to the department or submitted for approval by the county will not be considered complete unless the county board and the commissioner determine that the service modification or expansion is needed. If the determination or redetermination is appealed, the effect of this subpart may be stayed pending the outcome of the appeal.

Subp. 9. Appeal of commissioner's determination. A provider may appeal:

- A. the commissioner's determination of the need for a modification or expansion of existing services;
- B. the commissioner's determination of the need for services for which a change of ownership is proposed; or
- C. the commissioner's redetermination of need.

All appeals must be handled in accordance with Minnesota Statutes, chapter 14. Notice of appeal must be received by the commissioner within 30 days after the notification of the commissioner's decision was sent to the county.

9525.0145 ENFORCEMENT.

A county board must fully comply with parts 9525.0015 to 9525.0145 unless the county board submitted a written variance request to the commissioner under parts 9525.0015 to 9525.0145 [Emergency] by February 1, 1985, and the variance request was subsequently approved in writing by the commissioner. If the commissioner has reasonable grounds to believe that a county board has not complied with or is failing to comply with parts 9525.0015 to 9525.0135, except as provided in the county's approved variance request, the commissioner may issue a written order requiring the county board to comply. The county board shall comply with the order.

If the county board disagrees with the commissioner's order, the county board may appeal the decision to the commissioner and request reconsideration. To be reconsidered, the appeal must be filed in writing with the commissioner within 30 calendar days of the date that the commissioner issued the order. The appeal must state the reasons why the county board is appealing the commissioner's order and present evidence explaining why the county board disagrees with the commissioner's order. The commissioner shall review the evidence presented in the county board's appeal and send written notification to the county board of the decision on the appeal. The commissioner's decision on the appeal is final, unless an appeal is filed in district court.

REPEALER. Minnesota Rules, parts 9525.0010; 9525.0020; 9525.0030; 9525.0040; 9525.0050; 9525.0060; 9525.0070; 9525.0080; 9525.0090; and 9525.0100, are repealed.

Racing Commission

Proposed Emergency Rules Relating to Horse Medication

Notice of Intent to Adopt Emergency Rules

The Minnesota Racing Commission proposes to adopt the above-entitled emergency rules in accordance with the provisions of Minn. Stat. §§ 14.29-14.36 (1984). These emergency rules are authorized and required pursuant to Minn. Stat. § 240.24 (1984), as amended by Laws 1985, chapter 211.

Persons interested in these emergency rules have until 4:30 P.M., July 5, 1985, to submit written comments. The proposed temporary amendments may be modified if the modifications are supported by the data and views submitted to the Minnesota Racing Commission, and do not result in a substantial change in the proposed language. Written comments should be sent to:

Richard G. Evans
Executive Director
Minnesota Racing Commission
312 Central Avenue, Suite 400
Minneapolis, Minnesota 55414

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

PROPOSED RULES

Upon adoption of these emergency rules, this notice, all written comments received, and the adopted emergency rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality. Notice of the date of submission of the proposed emergency rules to the Attorney General will be mailed to any person requesting to receive such Notice. Such Notice will state whether the proposed emergency rules have been modified and will give instructions on how to obtain a free copy of the proposed emergency rules as modified. The Attorney General shall approve or disapprove the proposed emergency rules and any modifications on the tenth working day following the date of receipt of the proposed emergency rules from the Minnesota Racing Commission.

The adopted emergency rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the emergency rules form. Emergency rules take effect five (5) working days after approval by the Attorney General.

Pursuant to the provisions of Laws 1985, chapter 211, these emergency rules will expire on November 15, 1985.

These emergency rules, which supersede the rules previously adopted as Minn. Rules Chapter 7890, allow for the use of certain medications, including: (1) topical external applications, (2) food additives, (3) furosemide (or other pulmonary hemostatic agents), and (4) nonsteroidal anti-inflammatory drugs.

A free copy of the proposed emergency rules may be obtained by contacting Richard G. Evans at the above address or at (612) 341-7555.

May 28, 1985

Richard G. Evans
Executive Director
Minnesota Racing Commission

Emergency Rules as Proposed (all new material)

CHAPTER 7890 MINNESOTA RACING COMMISSION HORSE MEDICATION

7890.0100 [Emergency] DEFINITIONS.

Subpart 1. Scope. The terms used in this chapter shall have the meanings given them in this part.

Subp. 2. Analgesic. "Analgesic" is a substance used to relieve pain.

Subp. 3. Anesthetic. "Anesthetic" is a substance used to effect a loss of feeling or sensation in any part of the body.

Subp. 4. Bleeder. "Bleeder" means a horse which during a race or exercise is observed by the commission veterinarian or stewards to be shedding blood from one or both nostrils or which is suspected of having bled and is so confirmed by an endoscopic examination conducted by the commission veterinarian within one hour following the race or exercise. Bleeder also includes a horse which has been shipped into Minnesota and which meets the criteria in part 7890.0140 [Emergency], subpart 6.

Subp. 5. Bleeder list. "Bleeder list" means a tabulation of all bleeders maintained by the commission veterinarian.

Subp. 6. Bute. "Bute" means phenylbutazone or oxyphenbutazone.

Subp. 7. Chemist. "Chemist" means any official racing chemist designated by the commission.

Subp. 8. Depressant. "Depressant" is a substance used to diminish the function of the body, including the cardiovascular system, pulmonary system, urinary system, nervous system, musculo-skeletal system, or any other functions of the body.

Subp. 9. Detention barn. "Detention barn" means a secured structure designated by the commission.

Subp. 10. DMSO. "DMSO" means dimethylsulfoxide.

Subp. 11. Horse. "Horse" includes all horses registered for racing under the jurisdiction of the commission and, for purposes of this chapter, includes a stallion, colt, gelding, ridgling, filly, or mare.

Subp. 12. Lasix®. "Lasix®" means furosemide (4-chloro-N-furfuryl-5-sulfamoylanthranilic acid).

Subp. 13. Medication. "Medication" is a substance, compound, or element, or combination thereof, which is or can be administered to a horse for the purpose of preventing, curing, or alleviating the effects of any disease, condition, ailment, or infirmity, or symptom thereof, or for altering in any way the behavior, attitude, temperament, or performance of a horse, including athletic performance. The term medication includes all analgesics, anesthetics, depressants, narcotics, stimulants, tranquilizers, and other classifications of medications. Nothing herein shall be deemed to include:

A. Bute, provided that the test sample does not contain more than three micrograms of the substance or metabolites thereof per milliliter of blood plasma.

B. Lasix®, provided, however, that if it is administered to a confirmed bleeder on a day it is entered to race, it must be given under the visual supervision of the commission veterinarian and at a dose level not to exceed 250 milligrams (five milliliters of a 50 milligrams/milliliters or five percent solution) per administration.

C. Topical applications, such as antiseptics, ointments, salves, DMSO, leg rubs, and leg paints which may contain antibiotics (excluding procaine, penicillin, and chloranphenicol) but which may not contain benzocaine, steroids, or other medications.

D. Food additives, such as vitamins and electrolytes, provided such additives are administered orally and do not contain any medications.

Subp. 14. Narcotic. "Narcotic" is a substance used to induce a sleep or stupor and at the same time relieve pain.

Subp. 15. Positive test. "Positive test" means the detection of any medication or metabolites thereof in a test sample or a test level of Bute above the allowed level.

Subp. 16. Stimulant. "Stimulant" is a substance used to increase or excite the function of the body, including the cardiovascular system, pulmonary system, urinary system, nervous system, musculo-skeletal system, or any other systemic function of the body.

Subp. 17. Test level. "Test level" means the concentration of Bute found in a test sample.

Subp. 18. Test sample. "Test sample" means any bodily substance including blood, urine, saliva, or other substance designated by the commission, taken from a horse under the supervision of the commission veterinarian for the purpose of analysis.

Subp. 19. Tranquilizer. "Tranquilizer" is a substance used to alter the psychic state.

Subp. 20. Veterinarian. "Veterinarian" means a doctor of veterinary medicine licensed by the commission to practice at a Minnesota racetrack.

Subp. 21. Veterinarian's list. "Veterinarian's list" means a tabulation of horses maintained by the commission veterinarian that are prohibited from entering a race for a minimum of five calendar days and not until such time as the commission veterinarian deems the horse in fit condition to race.

7890.0110 [Emergency] MEDICATIONS PROHIBITED.

No person shall administer or cause to be administered to a horse within 48 hours of a race it is scheduled to run any medication (except as permitted by part 7890.0100 [Emergency], subpart 13, items A to D) by injection, oral or topical administration, rectal infusion or suppository, or by inhalation.

7890.0120 [Emergency] REPORTING PROCEDURES.

Subpart 1. Veterinarians must keep records. Veterinarians must submit daily to the commission veterinarian on a prescribed form a report of all medications and other substances (as provided in part 7890.0100 [Emergency], subpart 13, items A to D) which the veterinarian prescribed, administered, or dispensed for horses registered at a current race meeting. A logbook detailing other professional services performed while on the grounds of an association must be kept by veterinarians and shall be made immediately available to the commission veterinarian or the stewards upon request.

Subp. 2. Administration of Bute to be reported. The following procedures shall be observed when Bute is administered.

A. The administration of Bute to a horse entered to race must be reported to the commission veterinarian on a prescribed form by not later than 7:00 a.m. the day of the race.

B. Upon discontinuing the administration of Bute to a horse entered to race, the attending trainer must notify the commission veterinarian by 7:00 a.m. the day of the race.

C. If Bute is not detected in a test sample taken from a horse registered to use such substance, disciplinary action shall be initiated against the attending trainer and, if applicable, the substitute trainer.

7890.0130 [Emergency] FINDINGS OF CHEMIST.

Subpart 1. Prima facie evidence. A finding by a chemist that any medication or Bute exceeding the allowable test level provided in part 7890.0100 [Emergency], subpart 13, item A, shall be considered prima facie evidence that such medication or substance was administered and carried in the body of the horse while participating in a race. Such finding shall also be considered prima facie evidence that the trainer and, if applicable, the substitute trainer was negligent in the handling or care of the horse.

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

PROPOSED RULES

Subp. 2. Distributed purse money. The fact that purse money has been distributed prior to the issuance of the chemist's report shall not be deemed a finding that no medication or Bute exceeding allowable level was administered to the horse earning such purse money in violation of this chapter.

7890.0140 [Emergency] BLEEDERS.

Subpart 1. Maintenance. An up-to-date bleeder list shall be posted in the office of the racing secretary.

Subp. 2. Horses placed on bleeder list. Bleeders shall be placed on the bleeder list and veterinarian's list and shall be ineligible to be entered in a race pursuant to subpart 5.

Subp. 3. Endoscopic examination. Within one hour of the finish of the race or exercise in which a horse has participated, the commission veterinarian may require an endoscopic examination in order to confirm the horse's inclusion on the bleeder list. The endoscopic examination shall be conducted by a veterinarian employed by the horse's owner or his or her agent, and shall be conducted in the presence of and in consultation with the commission veterinarian. The commission veterinarian shall decide, based upon his or her experience and professional training, whether the amount of hemorrhage is sufficient to cause such horse to be certified as a bleeder.

Subp. 4. Confirmation of bleeder must be certified. The confirmation of a bleeder must be certified in writing by the commission veterinarian and such horse must be included on the bleeder list. Upon request, a copy of such certification shall be provided to the owner of the horse or his or her agent.

Subp. 5. Restrictions on confirmed bleeders. Confirmed bleeders shall be subject to the following restrictions:

A. For the first observed bleeding in Minnesota, the horse shall be placed on the bleeder list and the veterinarian's list and shall not be removed from the veterinarian's list for at least 14 days, and not until the commission veterinarian has approved its removal.

B. When a horse has been observed bleeding for the second time in Minnesota, the horse shall be placed on the veterinarian's list and shall not be removed from the list for at least 28 days, and not until the commission veterinarian has approved its removal.

C. When a horse has been observed bleeding for the third time in Minnesota, the horse shall be placed on the veterinarian's list and shall not be removed from the list for at least six months, and not until the commission veterinarian has approved its removal.

D. When a horse is observed bleeding a fourth time in Minnesota, the horse shall be barred from further pari-mutuel racing in Minnesota.

Subp. 6. Bleeders imported from other jurisdictions. A horse shipped into Minnesota from another jurisdiction may be considered a bleeder provided there is compliance with the following procedures:

A. the jurisdiction from which it was shipped considered the horse a bleeder, and documentation to that effect is immediately transmitted to the stewards and the commission veterinarian at the Minnesota racetrack to which it is shipped; and

B. the commission veterinarian certifies the horse as a bleeder.

Subp. 7. Bleeders confined to security stall. Once a horse is placed on the bleeder list, it must be in the detention barn not less than four hours prior to scheduled post time for the race in which it is entered to start. Once at the detention barn, a horse shall remain there until it is taken to the paddock to be saddled or harnessed for a race.

Subp. 8. Deadline for Lasix®. Bleeders entered to race must be treated at least four hours prior to post time. Immediately prior to treatment, a blood sample shall be taken by the commission veterinarian for analysis.

Subp. 9. Administration of Lasix®. Lasix® shall be administered by a veterinarian employed by the owner of the horse or his or her agent under the visual supervision of the commission veterinarian and at a dose level not to exceed 250 milligrams (five milliliters of a 50 milligrams/milliliters or five percent solution) per administration.

Subp. 10. Responsibility of trainer. While in the detention barn, the horse shall be in the care, custody, and under the control of the trainer or a licensed person assigned by the trainer. The trainer shall be responsible for the condition, care, and handling of the horse while it remains in the security area.

7890.0150 [Emergency] DISCLOSURE OF APPROVED MEDICATIONS TO PUBLIC.

All horses that have been treated with Bute or approved for race day use of Lasix® must be identified in the daily racing program on the day such horses are to race. Horses that are racing for the first time using Lasix®, must be so identified in the daily racing program.

Racing Commission

Proposed Rules Governing Horse Racing Regulations; Minnesota Racing Commission

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Racing Commission proposes to adopt the above-entitled rules 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 rules is Minnesota Statutes, sections 240.13, subd. 5; 240.15, subd. 2; 240.16, subds. 4, 5 and 6; 240.18; 240.23; and 240.25, subd. 4(a).

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

Any person may make a written request for a public hearing on the rules 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 rules 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:

Richard G. Evans
Executive Director
Minnesota Racing Commission
312 Central Avenue, Suite 400
Minneapolis, Minnesota 55414
Telephone: (612) 341-7555

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

The text of the proposed rules follows this notice in the *State Register*. Additional copies of the proposed rules are available for review upon request made to Richard Evans at the above address.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Richard Evans at the above address. The effect, if any, of the proposed rules on small businesses is addressed in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the noncontroversial rules, the rules 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 date 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 Richard Evans at the above address.

May 28, 1985

Richard G. Evans
Executive Director
Minnesota Racing Commission

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

PROPOSED RULES

Rules as Proposed

7897.0100 PROHIBITED ACTS.

Subpart 1. to 17. [Unchanged.]

Subp. 18. Possession of electrical devices. No person, while on the grounds of an association, shall have in his or her possession any electrical or mechanical device or other appliance, other than an ordinary riding whip, that could be used for the purpose of stimulating a horse or affecting its speed in a race or workout.

7897.0120 DISCIPLINARY SANCTIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Reciprocity of rulings. The commissioner or the stewards may suspend or revoke a Class C license if it is found that the licensee, or any person who is an agent, employee, or associate of such licensee:

A. is presently under suspension or his or her license has been revoked for any reason by a legally constituted racing commission of another jurisdiction; or

B. becomes suspended or has his or her license revoked for any reason by a legally constituted racing commission of another jurisdiction while such licensee is participating in racing in Minnesota.

Before considering a licensee for reinstatement in Minnesota, the commission or stewards shall require such licensee to obtain reinstatement in the original racing jurisdiction where his or her license was suspended or revoked, and to establish his or her fitness to be reinstated in Minnesota.

Rules as Proposed (all new material)

7873.0550 DISTRIBUTION OF PURSE MONEY.

Subpart 1. Purse amounts. Pursuant to Minnesota Statutes, section 240.13, subdivision 5, an amount equal to not less than five percent of all money in all pools must be allocated for purses by an association conducting horse racing. In making the distribution of purse money, an association must, to the extent possible, maintain purse amounts in proper relationship to actual pari-mutuel handles.

Subp. 2. Adjustments to purses. Should the levels of pari-mutuel handle create overpayment or underpayment of purses paid during the course of the race meeting, the association must make adjustments in each publication of its condition book to attempt to keep purses consistent with mutuel handles.

Subp. 3. Overpayments carried over. If, at the end of each race meeting, an overpayment of purses has occurred, the overpayment shall be carried over to the next race meeting of the same breed and such overpayment may be recovered by the association. The association must make its best effort to recover the overpayment on an even basis over the course of the race meeting to prevent serious inconsistencies in purse levels during the race meeting.

Subp. 4. Underpayments carried over. If, at the end of a race meeting, an underpayment of purses has occurred, the underpayment shall be carried over to the next race meeting of the same breed. Such underpayment must be paid to horse owners by adding the underpayment to purses. The association must make its best effort to repay the underpayment on an even basis over the course of the race meeting to prevent serious inconsistencies in purse levels during the race meeting.

Subp. 5. Willful underpayment. Should the commission determine that an association willfully failed to adjust purse levels in violation of subpart 1, for the purposes of retaining purse underpayments from one race meeting to the next, the association will be subject to disciplinary action by the commission.

Subp. 6. Escrow accounts. All money received by an association for races that charge nominating, sustaining, entry, or starting fees must be placed in interest bearing escrow accounts, and all accrued interest must be added to such races if:

A. the total fees received for such a race exceed \$15,000; or

B. fees are due and payable for such a race more than 180 days in advance of the advertised date of the running of the race.

CHAPTER 7874

MINNESOTA RACING COMMISSION

DIRECT DEPOSIT REQUIREMENTS AND REPORTING OF PAYMENTS

7874.0100 GENERAL PROVISIONS.

Subpart 1. Scope. For the purpose of administering the direct deposit of taxes, breakage, and unredeemed tickets pursuant to Minnesota Statutes, section 240.15, subdivisions 1, 2, and 5, and subparts 2 to 4 shall apply.

Subp. 2. Payment of pari-mutuel tax, admissions tax, breakage, and breeders' fund. Taxes, breakage, and breeders' funds collected by an association must be remitted to the commission within seven days of the day on which it was collected. However, the amount allocated for purse supplements, pursuant to part 7895.0110, subpart 2, item C, may be deducted and retained by the association as reimbursement for purse supplements paid by it. The remittance must be accomplished by a direct deposit in a financial institution designated by the commissioner of finance and approved by the commission. On those days when the seventh day is a holiday or a weekend day, the payment must be made by the succeeding business day.

At the close of each month in which racing is conducted, the association must report to the commission all deposits of taxes and breakage for that month.

Subp. 3. Payment of unredeemed tickets. After reporting to the commission, pursuant to Minnesota Statutes, section 240.13, and not later than 100 days after the end of a race meeting, an association must remit to the commission an amount equal to the total value of unredeemed tickets from the race meeting in the same manner as in subpart 2.

Subp. 4. Recapitulation. On each day that deposits are made by the association, a report must be filed with the commission containing the following recapitulation:

- A. total take-out;
- B. pari-mutuel tax;
- C. state and local admissions taxes;
- D. total breakage;
- E. commission's share of breakage; and
- F. breeders' fund tax.

CHAPTER 7879

MINNESOTA RACING COMMISSION

STEWARDS

7879.0100 QUALIFICATIONS AND APPOINTMENT OF STEWARDS.

Subpart 1. Qualifications for stewards. No person may qualify for commission appointment or approval as a steward unless:

A. he or she has served as a steward, racing secretary, assistant racing secretary, starter, placing judge, patrol judge, paddock judge, or clerk of scales at one or more recognized race meetings for a period of not less than 60 days per year during at least three of the five preceding calendar years;

B. he or she has satisfactorily passed an optical examination within 90 days prior to approval as a steward evidencing 20-20 vision (corrected) and the ability to distinguish colors; and

C. the commission is satisfied that income, other than salary as a steward, which may accrue to a person under consideration for appointment as a steward is independent of and unrelated to patronage of or employment by any licensee under the supervision of the steward, so as to avoid the appearance of any conflict of interest or suggestion of preferential treatment of a licensee.

Subp. 2. Appointment and approval of stewards. The following procedures must be observed in the appointment of stewards:

A. There shall be three stewards for each race meeting, two of whom shall be appointed by the commissioner and one of whom shall be nominated by the association for approval by the commission. The name of the association nominee for steward must be submitted no later than 30 days before commencement of a race meeting and be accompanied by biographical data setting forth the experience and qualifications of the nominee. The association may submit successive nominees until one person is approved by the commission as qualified to serve as steward. No steward may serve until approved by the commission.

B. In the event a steward becomes ill, resigns, or is unable to serve for any reason, the remaining stewards shall nominate a temporary steward to the commission for approval. In emergencies, the executive secretary may approve appointment of a temporary steward.

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

PROPOSED RULES

7879.0200 AUTHORITY AND DUTIES OF STEWARDS.

Subpart 1. General authority of stewards. The stewards shall exercise immediate supervision, control, and regulation of racing at each licensed race meeting on behalf of the commission and shall be responsible only to the commission. The powers of the stewards shall include:

- A. the authority over all horses and all persons, licensed or unlicensed, on association grounds during a race meeting as to all matters relating to racing;
- B. the authority to determine all questions, disputes, protests, complaints, or objections concerning racing matters which arise during a race meeting and to enforce such determinations;
- C. the authority to suspend, according to applicable law, the license of a participant in racing;
- D. the authority to eject or exclude according to applicable law, from association grounds or any part thereof, licensed or unlicensed persons for violations of law;
- E. the authority to interpret and enforce commission rules and determine all questions pertaining to racing matters in conformity with applicable law and the "customs of the turf";
- F. the authority to issue decisions or rulings pertaining to racing matters which shall supersede orders of the officers, directors, and officials of the association, which may vary any arrangement relating to the conduct of a race meeting, including postponing or canceling a race, or ruling a race "no contest";
- G. the authority to request and receive assistance from commission employees, racing officials, track security, and federal, state, or local police in the investigation of possible violations of law;
- H. the authority to conduct hearings on all questions, disputes, protests, complaints, or objections concerning racing matters;
- I. in the event a jockey, driver, trainer, or racing official, other than a steward, is determined to be unable for any reason to perform his or her duties, the authority to appoint a substitute therefor; and
- J. the authority to excuse a horse or any jockey, driver, trainer, or racing official other than a steward.

Subp. 2. Specific duties and responsibilities of stewards. In addition to the duties and responsibilities necessary and pertinent to general supervision, control, and regulation of race meetings, and without limiting the authority of the stewards to perform those and all other duties listed in this part, the stewards shall have the following specific duties and responsibilities:

- A. To consider and review all allegations of misconduct or rule infractions and, when warranted, initiate investigations of the allegations and conduct necessary hearings; or take the action necessary to prevent rule infractions.
- B. At least one steward shall be on association grounds from scratch time (or, if not a racing day, when entries are first taken) until entries are closed. At least one steward shall be present for the regular showing of racing films or video tapes. All three stewards shall be on association grounds for a continuous period beginning not less than one hour before post time for the first race until conclusion of the last race.
- C. At least one steward, or a designated representative of the stewards, shall be present in the paddock before each race and remain there until the horses leave for the starting gate, to observe the conduct of all persons in and around the paddock.
- D. To review applications for Class C licenses and administer, or cause to be administered by technically qualified persons, standard examinations to all first-time applicants for a trainer, jockey, apprentice jockey, driver, or farrier license, and to make recommendations to the commission as to the qualifications of all applicants for Class C licenses.
- E. To review all license applications, registration certificates, contracts, papers, and other documents pertaining to the sale or ownership of a horse, payment of purse money, appointments of agents, and applications for racing colors or stable name.
- F. To require proof of eligibility of a horse or person to participate in a race if the eligibility is in question and, in the absence of sufficient proof to establish eligibility, to rule the horse or person ineligible.
- G. To supervise the taking of entries and receive all declarations and scratches and determine all questions arising and pertaining to same; the stewards may refuse the entry of any horse by any person, or refuse to permit a declaration or scratch, or may limit entries when necessary to protect the safety or integrity of racing.
- H. To lock all pari-mutuel betting machines not later than the start of a race.
- I. To cause the "inquiry" sign to be posted on the infield totalizator board immediately after the horses have crossed the finish line in a race if any doubt is held by any steward as to the fairness of the running of the race.
- J. To cause the "objection" sign to be posted on the infield totalizator board upon the lodging of an objection.
- K. To cause the "official" sign to be posted on the infield totalizator board after determining the official order of finish for purposes of pari-mutuel payoff.

L. To review the video tapes of each day's races before commencement of the successive day's races and to draw up and post a list of jockeys (including all apprentice jockeys) whom the stewards feel should review such films for instructional purposes.

M. To maintain daily reports of actions taken and observations made during the conduct of each day's racing program. The report must contain the name of the track, the date, weather and track conditions, claims, inquiries and objections, and any unusual circumstances or conditions. The reports must be signed by all three stewards and filed with the commission within 24 hours.

N. During racing hours, make periodic inspections of the jockeys' and drivers' room and observe security, and note the inspections and observations made in the stewards' daily report.

O. To maintain detailed records of all questions, disputes, protests, complaints, or objections brought to the attention of the stewards, and a summary of interviews, reports of investigations, and rulings issued thereon. If a ruling is not unanimous, the dissenting steward shall record the reasons for the dissent. The stewards' log must be available to the commission for inspection at all times.

P. Within seven days after the conclusion of a race meeting, the stewards must submit to the commission a written report containing their observations and comments concerning the conduct of the race meeting and the condition of the association grounds and any appropriate recommendation for improvement.

Subp. 3. Criteria and bases for stewards' decisions.

A. When making judgments with respect to the conduct of horse racing, the stewards shall take into consideration the following:

- (1) their prior experience in horse racing;
- (2) the applicability of similar prior decisions to the decision being made;
- (3) all relevant circumstances surrounding the decision under consideration;
- (4) what effect, if any, the decision being made has upon the integrity of racing and the safety, health and welfare of the participants and the general public; and
- (5) any other relevant factors which affect the integrity of horse racing, so long as the same factors are considered with regard to all similar decisions.

B. When making a determination or recommendation regarding the qualifications of an applicant for a Class C license, the stewards shall consider the following factors:

- (1) whether the applicant's ability is sufficient so as to not endanger the life or safety of the applicant, other participants, racetrack patrons, horses, or property;
- (2) whether the applicant is able to perform in a competitive manner so as to enhance the quality of horse racing;
- (3) whether the applicant's ability and/or qualifications are at least equal to those of current licensees; and
- (4) any other relevant factors which affect the integrity of horse racing, or the health, safety, or welfare of persons and animals so long as these same factors are applied uniformly to all applicants for Class C licenses.

7879.0300 COMPENSATION OF STEWARDS.

Subpart 1. Commission to be reimbursed. An association must reimburse the commission, on a weekly basis, for the cost of providing state stewards. The level of compensation and benefits for all stewards shall be determined by the commission.

Subp. 2. Compensation level. In determining the level of compensation for stewards, the commission shall consider the following criteria:

- A. the current comparable rate of compensation for stewards in other racing jurisdictions;
- B. the experience and background of the stewards, as well as their responsibilities and required hours of work; and
- C. the cost of any necessary equipment used or specialized courses required to fulfill their duties.

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

PROPOSED RULES

CHAPTER 7895 MINNESOTA RACING COMMISSION BREEDERS' FUND

7895.0100 GENERAL PROVISIONS.

Subpart 1. Scope. The purpose of this chapter is to administer the breeders' fund under Minnesota Statutes, section 240.18, and the required race provision of Minnesota Statutes, section 240.29.

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.

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 may 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. All original foal registration certificates must be submitted for inspection to the commission or official registering agency. Affidavits or other substantive proof, as the commission or official registering agency deems necessary, may be required 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 restricted races 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 purposes of this part, the following terms have the meaning given them unless another intention clearly appears.

A. "Minnesota-owned" means:

(1) In the case of a horse owned by an individual, the owner must reside in Minnesota, declare himself or herself to be a resident of Minnesota for purposes of Minnesota Statutes, chapter 290, and declare that he or she is not a resident of any other state.

(2) In the case of a horse owned by a corporation, the corporation must:

(a) be legally incorporated in the state of Minnesota;

(b) have its principal place of business in Minnesota;

(c) have at least 51 percent of all outstanding shares of stock owned by shareholders who are residents of Minnesota for purposes of Minnesota Statutes, chapter 290, and who declare that they are not residents of any other state.

(3) In the case of a horse owned by a limited partnership, the general partners and at least 51 percent of the limited partners must be residents of Minnesota for purposes of Minnesota Statutes, chapter 290, and declare that they are not residents of any other state.

(4) In the case of a horse owned by a partnership, all partners must be residents of Minnesota for purposes of Minnesota Statutes, chapter 290, and declare that they are not residents of any other state.

Every owner of a Minnesota-owned horse must hold a Class C owner's license issued by the commission as required in part 7877.0130, subparts 1 and 2.

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

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

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. 31 percent shall be set aside and paid to breeders of Minnesota-bred horses as breeders' awards;

B. 31 percent shall be set aside and paid to owners of Minnesota-bred horses as owners' awards;

C. 31 percent shall be 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.

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

Subp. 3. Distribution of money. The money available from the thoroughbred breeders' fund, other than purse supplements, shall be distributed as follows:

A. "Breeders' awards" shall be paid to the breeder of a Minnesota-bred horse, as reflected on the Jockey Club certificate that finishes fifth or better in any claiming race for \$10,000 or more, or in any allowance (including maiden allowance), handicap, or stakes race.

B. "Owners' awards" shall be paid to the owners of Minnesota-bred horses that finish fifth or better in any claiming race for \$10,000 or more, or in any allowance (including maiden allowance), handicap, or stakes race.

C. "Stallion awards" shall be paid to the owners of the Minnesota-sire of a Minnesota-bred horse that finishes fifth or better in any claiming race for \$10,000 or more, or in any allowance (including maiden allowance), handicap, or stakes race.

Subp. 4. Methods of payment. The amount of money allocated by the commission for awards or purse supplements under this part shall be paid out in the same percentage as the purse money in the race.

Subp. 5. Time of payment. Purse supplements are part of the purse and shall be credited to owners' accounts at the time such purses are earned. All money allocated for breeders' awards, owners' awards, and stallion awards shall be distributed within 30 days of the end of the race meeting.

Subp. 6. Maximum awards permitted. The maximum amount of any award, exclusive of purse supplements, paid to an individual or entity under this part shall not exceed:

A. For calendar year 1985:

- (1) \$75,000 per breeder;
- (2) \$75,000 per owner; or
- (3) \$75,000 in total combined awards if a breeder is also an owner.

B. For calendar year 1986:

- (1) \$150,000 per breeder;
- (2) \$150,000 per owner; or
- (3) \$150,000 in total combined awards if a breeder is also an owner.

Subp. 7. Residual funds. After complying with subparts 4 to 6:

A. any remaining funds in the stallion awards account shall be transferred to and distributed through the owners' account; and

B. any remaining funds in the owners' awards account and the breeders' awards account shall be distributed in proportion to the award money earned by each individual Minnesota-bred horse to the total award money earned by Minnesota-bred horses as a group.

After complying with subparts 4 to 7, any remaining funds in the breeders' and owners' accounts, and all unearned purse supplements, shall be retained and carried forward to be included as net distributable funds in the succeeding thoroughbred race meeting.

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

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

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

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

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

Department of Health

Adopted Temporary Rules Relating to Procedures For Assessment And Classification of Residents of Nursing Homes and Boarding Care Homes Participating in the Medical Assistance Program

The rules proposed and published at *State Register*, Volume 9, Number 41, pages 2245-2248, April 8, 1985 (9 S.R. 2245) are adopted with the following modifications:

Rules as Adopted, Temporary

4656.0010 SCOPE.

Parts 4656.0010 to 4656.0070 [Temporary] establish procedures for the assessment and classification of residents of nursing homes and boarding care homes required to determine the operating cost payment rates for all nursing homes and boarding care homes participating in the medical assistance program under Minnesota Statutes, sections 256B.41 to 256B.48 and parts 9549.0050 to ~~9549.0058~~ 9549.0059 [Temporary].

4656.0020 [Temporary] DEFINITIONS.

Subp. 6. Resident class. "Resident class" means each of the 11 categories established in part ~~9549.0057~~ 9549.0058 [Temporary].

4656.0030 [Temporary] ANNUAL RESIDENT ASSESSMENT.

Subp. 3. Classification and notification. Within 15 working days of receiving the completed assessment documents, the department must classify each resident into one of the resident classes prescribed by part ~~9549.0054~~ 9549.0058 [Temporary], subpart 1, item F, and mail a written notice to the resident and the nursing home or boarding care home of the resident classification. The written notice must inform the resident and the nursing home or boarding care home of the opportunity to review the state's documents supporting the classification, and the right of the facility or the resident to request a reconsideration of the classification.

4656.0040 [Temporary] REVIEW AND CLASSIFICATION OF FACILITY AND PREADMISSION SCREENING ASSESSMENTS.

Subpart 1. Classification. Within 15 working days of receiving each request for classification submitted in accordance with part ~~9549.0058~~ 9549.0059 [Temporary], the department shall classify the resident into one of the resident classes established in accordance with part ~~9549.0057~~ 9549.0058 [Temporary] or notify the individual completing the assessment or the nursing home or boarding care home furnishing the documentation of additional information necessary for determining the classification.

Subp. 2. Notification of classification. Within 15 days of receiving a complete and accurate request for classification, the department shall mail a written notice to the resident and the nursing home or boarding care home of the resident's classification. The written notice must inform the resident and the nursing home or boarding care home of the right to review the department of health's documents supporting the classification and the right of the facility or the resident to request a reconsideration of the classification.

4656.0050 [Temporary] AUDITS OF ASSESSMENTS OF NURSING HOME RESIDENTS.

Subpart 1. Audits required. The department shall audit the accuracy of resident assessments performed under parts 9549.0050 to ~~9549.0058~~ 9549.0059 [Temporary] through desk audits and on-site reviews of residents and their records. The department shall reclassify a resident that it determines to have been incorrectly assessed.

Subp. 2. Request for reconsideration. Within five working days of a reclassification required by subpart 1, the department shall mail a written notice to the resident and the nursing home or boarding care home of the resident's classification, the opportu-

nity to review the Department of Health's documents supporting the classification, and the right of the facility or the resident to request reconsideration of the classification.

4656.0060 [Temporary] REQUEST FOR RECONSIDERATION OF RESIDENT CLASSIFICATION.

Subpart 1. Reconsideration permitted. A nursing home or a boarding care home or resident, or the resident's authorized representative who is dissatisfied with the classification into a resident class by the department, may request that the department reconsider the classification.

Subp. 2. Request for reconsideration. A nursing home or boarding care home or a resident, or the resident's authorized representative who requests reconsideration of the resident's classification, shall file the request in writing within ten working days of receiving the notice of the resident's classification. The facility or the resident shall support the request with documentation that the resident's needs at the time of the assessment were different from those identified in the assessment, or that the needs identified in the assessment require a different resident classification than that assigned by the department. The nursing home or boarding care home must provide a resident or the resident's authorized representative with a copy of the assessment form and any other documentation provided to the department in support of the resident's assessment. This documentation shall be provided within one working day of receipt of a written request from the resident or the resident's authorized representative. If a facility requests the reconsideration of a resident's classification, a written notice must be provided to the resident on the date the request is submitted to the department. The notice to the resident shall contain the information provided to the department that supports the request for reconsideration.

4656.0070 [Temporary] ASSESSMENT OF RESIDENTS ON JULY 1, 1985.

~~On or before May 15, 1985,~~ The department shall mail a notice to each nursing home or boarding care home specifying the resident classes for all residents in the home for which the department has assessment information no later than one day after the effective date of parts 4656.0010 to 4656.0070 [Temporary]. Each nursing home or boarding care home shall assess each resident whose name does not appear on the department's ~~May 15, 1985,~~ classification list under the procedures prescribed by part ~~9549.0058~~ 9549.0059 [Temporary], subpart 3, item B. The nursing home or boarding care home shall submit a request for classification for each resident assessed by the nursing home or boarding care home to the department ~~by June 1, 1985~~ no later than 15 days after receipt of the department's notice. The request for classification must include the completed assessment form and the resident's plan of care. The department shall classify each resident for whom a request for classification has been received by June 15, 1985, and notify the nursing home or boarding care home by June 20, 1985, of the classification. For any facility in which an annual QAR assessment occurs between May 1, 1985, and June 30, 1985, the classifications established under part 4656.0030 [Temporary], subpart 3, shall apply.

Department of Health Health Systems Division

Adopted Rule Defining Individual Permanent Medical Record

The rule proposed and published at *State Register*, Volume 9, Number 34, pages 1868-1871, February 18, 1985 (9 S.R. 1868) is adopted as proposed.

Department of Human Services

Adopted Rules Relating to Nursing Home Payment Rate Determination

The rules proposed and published at *State Register*, Volume 9, Number 32, pages 1716-1739, February 4, 1985 (9 S.R. 1716) are adopted with the following modifications:

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

ADOPTED RULES

Rules as Adopted

CHAPTER 9549 DEPARTMENT OF HUMAN SERVICES NURSING HOME PAYMENT RATE DETERMINATION

9549.0020 DEFINITIONS.

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

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

Subp. 7. Buildings. "Buildings" means the physical plant used directly for resident care and licensed under Minnesota Statutes, chapter 144A or Minnesota Statutes, sections 144.50 to 144.58 ~~and which does not include attached fixtures, land improvements, and depreciable equipment 144.56, and auxiliary buildings in the nature of sheds, garages, and storage buildings located on the site if used directly for resident care. This definition does not include buildings or portions of buildings used by central, affiliated, or corporate offices.~~

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

Subp. 18. Depreciation guidelines. "Depreciation guidelines" means "The Estimated Useful Lives of Depreciable Hospital Assets," issued by the American Hospital Association, 840 North Lake Shore Drive, Chicago, Illinois (Chicago: 1983). Except as provided in part 9549.0030, subpart 4, the useful lives in the depreciation guidelines must not be used in the determination of the total payment rate. The depreciation guidelines are incorporated by reference and are available for reference at the Minnesota State Law Library, 117 University Avenue, Saint Paul, Minnesota.

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

Subp. 25. Historical operating costs. "Historical operating costs" means the allowable operating costs incurred by the nursing home during the reporting year immediately preceding the rate year for which the payment rate becomes effective, after the ~~application of appropriate limitations such as those on general and administrative costs commissioner has reviewed those costs and determined them to be allowable costs under the medical assistance program, and after the commissioner has applied the limit on general and administrative costs.~~

Subp. 31. Nursing home. "Nursing home" means a facility licensed under Minnesota Statutes, chapter 144A or a boarding care facility licensed under Minnesota Statutes, sections 144.50 to ~~144.58~~ 144.56.

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

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

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

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

Subp. 49. Working capital interest expense. "Working capital interest expense" means the interest expense incurred on working capital debt during the reporting year.

9549.0030 COST ALLOCATION PROCEDURES.

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

Subp. 3. Personnel with multiple duties. When a person other than top management personnel has multiple duties, the per-

son's salary cost must be allocated to the cost categories on the basis of time distribution records that show actual time spent, or an accurate estimate of time spent on various activities. In a nursing home of 60 or fewer beds, part of the salary or salaries of top management personnel may be allocated to other cost categories to the extent justified in time distribution records which show the actual time spent, or an accurate estimate of time spent on various activities. A nursing home that chooses to estimate time spent must use a statistically valid method. Persons who serve in a dual capacity, including those who have only nominal top management responsibilities, shall directly identify their salaries to the appropriate cost categories. The salary of any person having more than nominal top management responsibilities must not be allocated.

Subp. 5. General and administrative costs. Except as provided in ~~subpart~~ subparts 3 and 4, general and administrative costs must not be allocated as direct or indirect costs to other cost categories.

9549.0035 DETERMINATION OF ALLOWABLE COSTS.

Subp. 2. Applicable credits. Applicable credits must be used to offset or reduce the expenses of the nursing home to the extent that the cost to which the credits apply was claimed as a nursing home cost. Interest income, dividend income, and other investment income of the nursing home or related organization are not applicable credits except to the extent that the interest expense on working capital debt is incurred and claimed as a reimbursable expense by the nursing home or related organization. Interest income must not be offset against working capital interest expense if it relates to a bond sinking fund or ~~other a restricted~~ fund with as defined in part 9549.0060, subpart 7, item B, or other restricted fund if the income is not available to the nursing home or related organization. Gains or losses on the sales of capital assets used by the nursing home must not be applicable credits.

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

A. In order to be adequate, documentation must:

- (1) Be maintained in orderly, well-organized files;
- (2) Not include documentation of more than one nursing home in one set of files unless transactions may be traced by the department to the nursing home's annual cost report;
- (3) Include a paid invoice or copy of a paid invoice with date of purchase, vendor name and address, purchaser name and delivery destination address, listing of items or services purchased, cost of items purchased, account number to which the cost is posted, and a breakdown of any allocation of costs between accounts or nursing homes; If any of the information is not available, the nursing home shall document its good faith attempt to obtain the information.
- (4) Include contracts, agreements, amortization schedules, mortgages, other debt instruments, and all other documents necessary to explain the nursing home's costs or revenues; ~~and~~
- (5) Be retained by the nursing home to support the five most recent annual cost reports. The commissioner may extend the period of retention if the field audit was postponed because of inadequate record keeping or accounting practices as in part 9549.0041, subpart 13, item A, the records are necessary to resolve a pending appeal, or are required for the enforcement of Minnesota Statutes, section 256B.48.

B. Compensation for personal services, regardless of whether treated as direct or indirect costs, must be documented on payroll records. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees which are allocated to more than one cost category must be supported by time distribution records. The method used must produce a proportional distribution of actual time spent, or an accurate estimate of time spent performing assigned duties. The nursing home that chooses to estimate time spent must use a statistically valid method. The compensation must reflect an amount proportionate to a full-time basis if the services are rendered on less than a full-time basis.

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

A. Compensation includes:

(6) ~~payment to nonpaid workers, and~~ payment to organizations of nonpaid workers, that have arrangements with the nursing home for the performance of services by the nonpaid workers.

B. The nursing home must have a written policy for payment of compensation for personal services. The policy must relate the individual's compensation to the performance of specified duties and to the number of hours worked ~~by the individual; and~~

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

ADOPTED RULES

result in consistent treatment of employees working in comparable positions within the nursing home. Compensation payable under the plan must be consistent with the compensation paid to persons performing similar duties in the nursing home industry. Employees covered by collective bargaining agreements are not required to be covered by the policy if the collective bargaining agreement otherwise meets the essentials of the policy required by this item.

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

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

C. other requirements for licensing under state ~~and federal~~ law ~~or~~, state rules, or federal regulations that must be met to provide nursing and boarding care services.

Subp. 7. Related organization costs. Costs applicable to services, capital assets, and supplies directly or indirectly furnished to the nursing home by any related organization are includable in the allowable cost of the nursing home at the ~~cost to purchase price paid by~~ the related organization for capital assets or supplies and at the cost incurred by the related organization for the provision of services to the nursing home if these prices or costs do not exceed the price of comparable services, capital assets, or supplies that could be purchased elsewhere. For this purpose, the related organization's costs must not include an amount for markup or profit.

9549.0036 NONALLOWABLE COSTS.

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

E. Advertising designed to encourage potential residents to select a particular nursing home. This item does not apply to a notice of reasonable size and cost total expenditure of \$2,000 for all notices placed in the telephone yellow pages for the purpose of stating the nursing home's name, location, phone number, and general information about services in the nursing home.

I. Costs of activities not related to resident care such as flowers or gifts for employees or owners, employee parties, and business meals except as in part 9549.0040, subpart 7, item Y.

J. Costs related to purchase of and care for pets in excess of \$5 per year per licensed bed.

K. Penalties including interest charged on the penalty, interest charges from governmental agencies which result from an overpayment, and bank overdraft or late payment charges.

V. Telephone, television, and radio service provided in a resident's room except as in part 9549.0040, subpart 7, item Q.

CC. Payments made in lieu of real estate taxes, unless such payments are made under a legally enforceable irrevocable written contract entered into prior to ~~September 30, 1984~~ the effective date of parts 9549.0010 to 9549.0080.

9549.0040 REPORTING BY COST CATEGORY.

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

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

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

C. the cost of required licenses and permits required for operation of the nursing home.

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

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

V. costs for education or training including the cost of lodging and meals of nursing service personnel. Educational costs

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

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

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

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

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

D. telephone, television, and radio services provided in areas designated for use by the general resident population, such as lounges and recreation rooms and the charge of transferring a resident's phone from one room to another within the same nursing home.

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

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

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

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

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

~~R. security services or security personnel;~~

~~S. R. joint commission on accreditation of hospitals survey;~~

~~T. S. advertising;~~

~~U. T. board of director's fees;~~

~~V. U. interest on working capital debt;~~

~~W. V. fees paid for the successful collection of bad debts associated with the provision of care to residents of the nursing homes; bad debts and fees paid for collection of bad debts provided that the conditions in subitems (1) to (4) are met:~~

~~(1) the bad debt results from nonpayment of the payment rate or part of the payment rate;~~

~~(2) the nursing home documents that reasonable collection efforts have been made, the debt was uncollectable, and there is no likelihood of future recovery;~~

~~(3) the collection fee does not exceed the amount of the bad debt; and~~

~~(4) the debt does not result from the nursing home's failure to comply with federal and state laws, state rules, and federal regulations.~~

~~X. W. the portion of preopening costs capitalized as a deferred charge and amortized over a period of 120 consecutive months beginning with the month in which a resident first resides in a newly-constructed nursing home; and~~

~~Y. X. the cost of meals incurred as a result of required overnight business related travel; and~~

Y. any costs which cannot be specifically classified to another cost category.

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

ADOPTED RULES

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

C. group life insurance ~~and disability insurance~~;

F. either a pension plan or profit-sharing plan, approved by the United States Internal Revenue Service, but not both for the same employee;

I. costs of training clerical personnel including the cost of meals and lodging.

Subp. 9. Real estate taxes and special assessments. Real estate taxes and special assessments for each nursing home are to be reported in the real estate taxes and special assessments cost category. In addition, payments permitted under part 9549.0036, item CC must be reported in this cost category.

9549.0041 GENERAL REPORTING REQUIREMENTS

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

B. Reports of historical costs with supporting calculations, worksheets, and an explanation of the historical costs as requested on the cost report form.

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

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

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

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

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

B. The commissioner may reject any annual cost report filed by a nursing home that is incomplete or inaccurate or may require additional information necessary to support the payment rate request. The corrected report or the additional information requested must be returned to the commissioner within 20 days of the request or the report must be rejected. The commissioner may extend this time if the nursing home makes a showing of good cause in writing and if the commissioner determines that the delay in receipt of the information will not prevent the commissioner from establishing rates in a timely manner as required by law. Failure to file the required cost report and other required information or to correct the form of an incomplete or inaccurate report or shall result in its rejection and in a reduction of the payment rate in subpart 12. The failure to provide additional information shall also result in a reduction of the payment rate as specified in subpart 12 unless the total payment rate can be calculated by the disallowance of the cost for which no additional information was requested, in which case no rate reduction as specified in subpart 12 shall occur.

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

B. The reduced total payment rate is effective:

(1) 21 days after a written request for additional information under subpart 3, items A to D, is sent by the commissioner; or at the expiration of any additional time period the commissioner may allow under subpart 10, item B.

(2) ~~94 days after written notification is sent regarding inadequacies in recordkeeping or accounting practices under subpart 13; or~~

(3) ~~on January 15;~~ For failure to provide the information required in subpart 1, 2, 4, or 9. On January 1, if no extension has been granted; on January 15, if the extension was granted; or 21 days after a written request for the correction or completion of inaccurate reports of financial statements, or at the expiration of a further time period that the commissioner allows under subpart 10, item B.

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

A. The department shall subject all reports and supporting documentation to desk and field audits to determine compliance with parts 9549.0010 to 9549.0080. Retroactive adjustments may be made as a result of desk or field audit findings. If the audits reveal a field audit reveals inadequacies in a nursing home's record keeping or accounting practices, the commissioner shall

may require the nursing home to engage competent professional assistance to ~~properly prepare required reports~~ correct those inadequacies within 90 days so that the field audit may proceed.

B. Field audits may cover the four most recent annual cost reports for which desk audits have been completed and payment rates have been established. The field audit must be an independent review of the nursing home's cost report. All transactions, invoices, or other documentation that support or relate to the costs claimed on the annual cost reports are subject to review by the field auditor.

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

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

(1) ~~mathematical~~ Errors or omissions in the annual cost report are discovered, ~~if the~~ and an amendment would result in at least a five-cent per resident day or \$2,000 adjustment, whichever is less for each reporting year. The commissioner shall make retroactive adjustments to the total payment rate of an individual nursing home if the amendment is filed within ~~one year of the filing~~ 14 months of the original cost report to be amended; ~~or. An error or omission for purposes of this item does not include a nursing home's determination that a prior election between alternative methods of reporting costs permitted under parts 9549.0010 to 9549.0080 was not advantageous and should be changed. Errors or omissions that do not meet the threshold amount required for amended cost reports, or errors or omissions discovered after the 14-month time limitation specified in this item, may be claimed at the time of the field audit.~~

9549.0060 DETERMINATION OF THE PROPERTY-RELATED PAYMENT RATE.

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

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

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

C. For hospital-attached nursing homes not in the sample, the allocation of the appraised value of the shared service areas must be recomputed if the hospital involved experiences a cumulative change in ~~resident total patient~~ days as defined by the Medicare program of more than 15 percent from the reporting year in which the most recently used set of allocation statistics were determined. The allocation using the method described in subpart 1, ~~item B~~, must be based on the Medicare stepdown in effect on September 30 of the rate year in which the updating of the appraised value is performed.

E. Each calendar year that a random sample is selected in item A to compute the average percentage change in appraised values in item B, the commissioner shall evaluate the adequacy of the sample size according to subitems (1) to (6).

(1) The tolerance level for an acceptable error rate must be plus or minus three percentage points.

(2) The confidence level for evaluating the sample size must be 95 percent.

(3) The sample size required to be within the tolerance level in subitem (1) must be computed using standard statistical methods for determination of a sample size.

(4) If the required sample size in subitem (3) is greater than the sample size used in item A, additional appraisals must be performed until the number of appraisals is equal to the required sample size in subitem (3). The additional nursing homes needed to complete the required sample size must be randomly selected. A nursing home that received a special reappraisal under subpart 3, or one that is receiving an interim payment rate under subpart 14, or one that was appraised in the original sample in item A must be

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

ADOPTED RULES

excluded. The average percentage change in appraised values in item B must be recomputed based on the increased sample size in subitem (3).

(5) If the tolerance level in subitem (1) continues to be exceeded after applying the procedures in subitems (3) and (4), the procedures in subitems (3) and (4) must be repeated until the error rate is within the tolerance level.

(6) If the required sample size in subitem (3) is equal to or less than the sample size used in item A, the average percentage change in appraised values must be the percentage determined in item B.

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

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

Upon receipt of a written request, the commissioner shall conduct a reappraisal within 60 days provided that all conditions of this subpart are met. The total historical cost of the addition or replacement, exclusive of the proceeds from disposals of capital assets or applicable credits such as public grants and insurance proceeds, must be the lesser of \$500,000, \$200,000 or 20 ten percent of the most recent appraised value determined under subparts 1 to 4. The addition or replacement must be complete and a certificate of occupancy issued, or if a certificate of occupancy is not required, the addition or replacement must be available for use. Special reappraisals under this item are limited to one per 12-month period.

B. A nursing home which retires buildings, attached fixtures, land improvements, or portions thereof without replacement, shall report the deletion to the commissioner within 30 days if the historical cost of the deletion exceeds \$100,000, \$200,000. The commissioner ~~may~~ shall conduct a reappraisal of the nursing home to establish the new appraised value and adjust the property-related payment rate accordingly.

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

B. Each nursing home's maximum allowable replacement cost new is determined annually according to subitems (1) to ~~(4)~~ (3):

(2) The single bedroom replacement cost new per bed limit in item A must be multiplied by the number of licensed beds in single bedrooms except as provided in subpart 11, item C, subitem ~~(3)~~ (2).

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

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

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

A. Debt shall be limited as follows:

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

(3) An increase in the amount of a debt as a result of refinancing of capital assets which occurs after May 22, 1983, shall not be allowed except to the extent that the increase in debt is the result of refinancing costs such as points, loan origination fees, or title searches.

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

A hospital-attached nursing home that has debts that are not directly identifiable to the hospital or the nursing home shall allocate the portion of allowable debt computed according to subpart 5, and allowable interest expense computed according to subpart 7 assigned to land and buildings, attached fixtures, and land improvements using the Medicare stepdown method described in subpart 1.

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

D. For reporting years ending on or after September 30, ~~1985~~ 1984, the total amount of allowable debt shall be the sum of all

allowable debts at the beginning of the reporting year plus all allowable debts at the end of the reporting year divided by two. Nursing homes which have a debt with a zero balance at the beginning or end of the reporting year must use a monthly average for the reporting year.

E. Debt incurred as a result of loans between related organizations must not be allowed.

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

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

(1) the effective interest rate on the debt; or

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

(3) 16 percent.

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

~~B. When a nonprofit provider borrows from its own restricted fund, interest expense paid by the general fund to the restricted fund which exceeds the interest rate limits in subpart 6, item A, or the interest rate the restricted fund is currently earning is not allowed. Interest expense on loans between operating and building funds shall not be allowed. A nonprofit nursing home shall use its restricted funds to purchase or replace capital assets to the extent of the cost of those capital assets before it borrows funds for the purchase or replacement of those capital assets. For purposes of this item and part 9549.0035, subpart 2, a restricted fund is a fund for which use is restricted to the purchase or replacement of capital assets by the donor or by the nonprofit nursing home's board.~~

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

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

D. Except as in item E, the amount determined in item C must be divided by 96 percent of capacity days.

E. If the average length of stay in the skilled level of care within a nursing home is 180 days or less, the nursing home shall divide the amount in item C by the greater of resident days or 80 percent of capacity days but in no event shall the divisor exceed 96 percent of capacity days.

For purposes of this item, the nursing home shall compute its average length of stay for the skilled level of care by dividing the nursing home's skilled resident days for the reporting year by the nursing home's total skilled level of care discharges for that reporting year.

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

C. Except as in item D, the ~~lease payment~~ building capital allowance must be the lesser of the ~~actual~~ operating lease expense divided by 96 percent of capacity days, or the allowable appraised value multiplied by the rental factor and then divided by 96 percent of capacity days.

D. A nursing home with an average length of stay of 180 days or less as defined in subpart 8, item E, shall use the divisor determined in subpart 8, item E, instead of 96 percent of capacity days.

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

ADOPTED RULES

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

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

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

For purposes of this item, a hospital-attached nursing home shall use the allocation method in subpart 1 to stepdown the historical cost of depreciable equipment.

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

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

C. The commissioner shall waive the requirements of item B if a nursing home agrees in writing to subitems (1) to (3).

(1) The nursing home shall agree not to request a private room payment in part 9549.0070, subpart 3 for any of its medical assistance residents in licensed single bedrooms.

(2) The nursing home shall agree not to use the single bedroom replacement cost new limit for any of its licensed single bedrooms in the computation of the allowable appraised value in subpart 4.

(3) The nursing home shall agree not to charge any private paying resident in a single bedroom a payment rate that exceeds the total payment rate established in part 9549.0070, subpart 1 by more than ten percent.

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

A. The cost of purchasing a capital asset ~~must be capitalized if the capital asset normally has a useful life of more than one year and costs more than \$300 listed in the depreciation guidelines must be capitalized. The cost of purchasing any other capital asset not included in the depreciation guidelines must be capitalized if the asset has a useful life of more than two years and costs more than \$500.~~

B. The nursing home may consider as an expense a repair that costs \$500 or less. Repairs that are considered as an expense must be classified in the plant operation and maintenance cost category. ~~A repair which exceeds \$500 must be capitalized provided that the repair extends the useful life or adds to the value of the capital asset. If the cost of a repair to a capital asset is \$500 or more, and the estimated useful life of the capital asset is extended beyond its original estimated useful life by at least two years, or if the productivity of the capital asset is increased significantly over its original productivity, then the cost of the repair must be capitalized.~~

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

C. For rate years beginning after June 30, 1985, the property-related payment rate shall be the lesser of the amount computed in item A or the historical property-related per diem in item B increased by six percent for each rate year beginning July 1, 1985 through July 1, 1989, except as provided in items D to G.

D. A nursing home whose allowable historical property-related per diem determined in item B is less than or equal to \$2.25 shall receive a property-related payment rate equal to the greater of \$2.25 or its allowable historical property-related per diem increased by six percent for each rate year beginning July 1, 1985 through July 1, 1989, except that the property-related payment rate shall not exceed the amount determined in item A.

9549.0061 PAYMENT FOR REAL ESTATE TAXES AND SPECIAL ASSESSMENTS.

The total real estate taxes and actual special assessments and payments permitted under part 9549.0036, item CC must be divided by actual resident days to compute the payment rate for real estate taxes and special assessments.

9549.0070 COMPUTATION OF TOTAL PAYMENT RATE.

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

Subp. 3. Private room payment rate. A private room payment rate of 115 percent of the established total payment rate for a

resident must be allowed if the resident is a medical assistance recipient and the private room is considered as a medical necessity for the resident or others who are affected by the resident's condition except as in part 9549.0060, subpart 11, item C. Conditions requiring a private room must be determined by the resident's attending physician and approved by the county welfare or human services board submitted to the department for approval or denial by the commissioner on the basis of medical necessity.

9549.0080 APPEAL PROCEDURES

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

C. The dispute over the decision ~~cannot be~~ is not resolved informally between the commissioner and the appealing party within 30 days of filing the written notice of intent to appeal under subpart 2, item A.

Department of Human Services

Adopted Temporary Rules Relating to Nursing Home Payment Rate Determination

The temporary rules proposed and published at *State Register*, Volume 9, Number 11, pages 2259-2271, April 8, 1985 (9 S.R. 2259) are adopted with the following modifications:

Rules as Adopted, Temporary

DEPARTMENT OF HUMAN SERVICES

NURSING HOME PAYMENT RATE DETERMINATION [Temporary]

9549.0051 [Temporary] DEFINITIONS.

Subp. 8. Other care related operating costs. "Other care related operating costs" means the operating costs listed in part 9549.0040, subpart 6, as proposed in *State Register*, volume 9, page 1716, February 4, 1985, and the portion of fringe benefits and payroll taxes allocated to the other care related cost category in accordance with part 9549.0053 and, the cost of food, and the required dietician consulting fees charged by a nonrelated organization in accordance with part 9549.0053.

Subp. 9. Other operating costs. "Other operating costs" means the operating costs listed in part 9549.0040, subparts 1, 2, 3, 4, and 7, as proposed in State Register volume 9, pages 1716, February 4, 1985, and the portion of fringe benefits and payroll taxes allocated to each of these operating costs categories in accordance with part 9549.0053, excluding the cost of food.

9549.0053 DETERMINATION AND ALLOCATION OF FRINGE BENEFITS AND PAYROLL TAXES, ~~AND~~ FOOD COSTS, AND REQUIRED DIETICIAN CONSULTING FEES.

Subp. 3. Determination of required dietician consulting fees. For any nursing home that has not separately reported required dietician consulting fees charged by a nonrelated organization, the commissioner shall determine the required dietician consulting fees according to items A to C.

A. The commissioner shall determine the average cost per licensed bed of dietician consulting fees charged by a nonrelated organization for all nursing homes that separately reported dietician consulting fees.

B. The nursing home's total number of licensed beds must be multiplied by the amount determined in item A to determine the required dietician consulting fees for that nursing home.

C. The amount determined in item B must be subtracted from the total dietary salary cost.

9549.0054 [Temporary] DETERMINATION OF THE ALLOWABLE HISTORICAL OPERATING COSTS PER DIEMS.

Subpart 1. Standardized resident days for rate year beginning July 1, 1985. For the rate year beginning on July 1, 1985, each nursing home's standardized resident days must be determined according to items A to H.

C. The medical assistance case mix index for each QAR assessment determined in item B must be divided by the total number of medical assistance residents in order to compute the medical assistance case mix score. If the total number of medical

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

ADOPTED RULES

assistance residents is equal to zero in the most recent QAR assessment, the medical assistance case mix score must be the private pay case mix score determined in item F, subitem (1).

D. The average monthly change in the medical assistance case mix score must be computed by subtracting the ~~most recent~~ previous medical assistance case mix score from the previous most recent medical assistance case mix score and dividing the result by the number of months between the two QAR ~~assessments~~ assessment dates. For any partial calendar month, the commissioner shall count as a full month any period of more than 14 days and shall disregard periods of 14 days or less.

F. The commissioner shall compute the private pay adjustment ratio in accordance with subitems (1) to (3).

(1) Using the method described in item C, compute the private pay case mix score for ~~private paying nonmedical assistance~~ private paying nonmedical assistance residents for each nursing home whose most recent QAR assessment included assessments of ~~private paying nonmedical assistance~~ private paying nonmedical assistance residents.

G. The commissioner shall determine the average private pay ~~average~~ case mix score for each nursing home in item F, subitem (1), by multiplying the private pay adjustment ratio determined in item F, subitem (3) times the average medical assistance case mix score determined in item E.

H. The commissioner shall compute the standardized resident days in accordance with subitems (1) to (3).

(1) For each nursing home whose most recent QAR assessment included assessments of nonmedical assistance residents, multiply the private pay nonmedical assistance resident days during the reporting year by the average nursing home's private pay case mix score as determined in item F, subitem (1). If the nursing home's QAR assessment does not include assessments of nonmedical assistance residents, multiply the nonmedical assistance resident days during the reporting year by the average private pay case mix score determined in item G.

9549.0055 [Temporary] DETERMINATION OF THE OPERATING COST ADJUSTMENT FACTORS AND LIMITS.

Subpart 1. Annual adjustment factors. The annual adjustment factors must be determined according to items A and B.

A. The annual adjustment factor for the case mix and other care-related operating costs must be established according to subitems (1) to (4).

(1) The components and indices for the case mix and other care related operating costs adjustment factor must be as specified in the following table.

CASE MIX AND CARE RELATED COMPONENTS AND INDICES

| Component | Weight | Index |
|--------------------|--------|--|
| Salaries | .7347 | Average hourly earnings of employees in nursing and personal care facilities (SIC 805). <u>SIC 805 is incorporated by reference.</u> |
| Benefits | .1107 | Difference between movements in compensation and wages and salary index components of the Employment Cost Index for Service Workers. <u>This index is incorporated by reference.</u> |
| Supplies and Drugs | .0363 | Consumer Price Index for nonprescription medical equipment and supplies. <u>This index is incorporated by reference.</u> |
| Food | .1183 | Producer Price Index for consumer foods. <u>This index is incorporated by reference.</u> |
| TOTAL | 1.0000 | |

Subp. 2. Limits. For each geographic group established in part 9549.0052 [Temporary] the operating costs limits must be determined according to items A to F. No redetermination of the operating costs limits shall be made due to audit adjustments or appeal settlement.

C. The total care related operating cost limit for each resident class must be determined by multiplying the amount determined in item A by the weight for each resident class and adding the amount determined in item B. For the rate year beginning July 1, 1985, the total care-related operating cost limit for nursing homes with an average length of stay of 180 days or less in their skilled nursing level of care must be 125 percent of the total care-related operating cost limit. For the rate year beginning July 1, 1985, a nursing home licensed on May 1, 1983, by the commissioner to provide residential services for the physically handicapped under parts 9570.2000 to 9570.3600 must be exempt from the total care-related operating cost limit.

E. The other operating costs limits must be determined in accordance with subitems (1) to ~~(3)~~ (5).

(2) The other operating cost limit for hospital attached nursing homes in each geographic group in part 9549.0052 [Temporary] must be 105 percent of the median of the array of the allowable historical other operating cost per diem for each nursing home in the group established under subitem (1) in the base year.

(3) The other operating cost limit for all nursing homes with an average length of stay of 180 days or less in their skilled nursing level of care, and nursing homes licensed on May 1, 1983, by the commissioner to provide residential services for the physically handicapped under parts 9570.2000 to 9570.3600 in each geographic group in part 9549.0052 [Temporary] must be 105 percent of the limit established in subitem (2).

(4) For each geographic group in part 9549.0052 [Temporary], the commissioner shall group all nursing homes not included in subitem (1).

(3) (5) The other operating cost limit for each group established in ~~subitems (1) and (2)~~ subitem (4) must be 105 percent of the median of the array of the allowable historical other operating cost per diems for each nursing home in the group for the base year.

9549.0056 [Temporary] DETERMINATION OF THE OPERATING COST PAYMENT RATE.

Subp. 3. Nonadjusted other operating cost payment rate. The nonadjusted other operating cost payment rate must be determined according to items A and B.

A. If the allowable historical other operating cost per diem determined in part 9549.0054 [Temporary], subpart 5, is below the limit for that group established in part 9549.0055 [Temporary], subpart 2, item E, ~~subitem (3)~~, the nursing home's nonadjusted other operating cost payment rate must be the allowable historical other operating cost per diem.

B. If the allowable historical other operating cost per diem determined in part 9549.0054 [Temporary], subpart 5, is at or above the limit for that group established in part 9549.0055 [Temporary], subpart 2, item E, ~~subitem (3)~~, the nursing home's nonadjusted other operating cost payment rate must be set at that limit.

Subp. 4. Adjusted prospective other operating cost payment rate. The adjusted prospective other operating cost payment rate must be determined according to items A ~~and~~ or B.

A. Except as provided in item B, if the nursing home's nonadjusted other operating cost payment rate is below the limit for that group established in part 9549.0055 [Temporary], subpart 2, item E, ~~subitem (3)~~, the nursing home's adjusted prospective other operating cost payment rate must be the nonadjusted other operating cost payment rate determined in subpart 3, item ~~H~~ A, multiplied by the other operating cost adjustment factor determined in part 9549.0055 [Temporary], subpart 1, item B, plus an efficiency incentive equal to the difference between the limit in part 9549.0055 [Temporary], subpart 2, item E, ~~subitem (3)~~, and the nonadjusted other operating cost payment rate in subpart 3 up to maximum of two dollars.

B. For any nursing home with an average length of stay of 180 days or less in its skilled nursing level of care and any nursing home licensed on May 1, 1983, by the commissioner to provide residential services for the physically handicapped under parts 9570.2000 to 9570.3600 which is under the limits established in part 9549.0055 [Temporary], subpart 2, item E, subitem (3), the nursing home's adjusted prospective other operating cost payment rate must be the nonadjusted other operating cost payment rate determined in subpart 3, item A, multiplied by the other operating cost adjustment factor determined in part 9549.0055 [Temporary], subpart 1, item B, plus an efficiency incentive equal to the difference between the limit in part 9549.0055 [Temporary], subpart 2, item E, subitem (2) and the nonadjusted other operating cost payment rate in subpart 3, up to a maximum of two dollars.

C. If the nursing home's nonadjusted other operating cost payment rate is at or above the limit for that group established in part 9549.0055 [Temporary], subpart 2, item E, ~~subitem (3)~~, the nursing home's adjusted prospective other operating cost payment rate must be the nonadjusted other operating cost payment rate determined in subpart 3, item B, multiplied by the other operating cost adjustment factor determined in part 9549.0055 [Temporary], subpart 1, item B.

D. The nursing home's efficiency incentives in items A or B must not be changed as a result of field audit adjustment.

9549.0057 [Temporary] DETERMINATION OF THE INTERIM AND SETTLE-UP OPERATING COST PAYMENT RATES.

Subp. 2. Settle-up operating cost payment rate. The settle-up total operating cost payment rate must be determined according to items A to C.

B. The settle-up operating cost payment rate for a nursing home which commenced construction after June 30, 1985, or whose interim reporting period included a period of time after that date must be determined for the portion of that interim period occurring after June 30, 1985, as in parts 9549.0050 to 9549.0059 [Temporary].

(6) The efficiency incentive in part 9549.0056 [Temporary], subpart 4, item A or B, must not apply.

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

ADOPTED RULES

C. For the nine-month period following the settle-up reporting period, the total operating cost payment rate must be determined according to item B except that the efficiency incentive in part 9549.0056 [Temporary], subpart 4, item A or B, shall apply.

9549.0058 [Temporary] RESIDENT CLASSES AND CLASS WEIGHTS.

Subpart 1. Resident classes. Each resident must be classified according to items A to E based on the assessments performed under part 9549.0059 [Temporary] on the assessment form.

E. Each resident must be defined as having a behavioral condition if the resident's assessment score is ~~three~~ two or more for behavior on the assessment form.

9549.0059 [Temporary] RESIDENT ASSESSMENT.

Subpart 1. Assessment of nursing home applicants and newly admitted residents. Each nursing home applicant or newly admitted resident shall be assessed for the purpose of determining the applicant's or newly admitted resident's class according to items A to I.

D. The nursing home must perform the assessment for any resident who is required to be assessed by the preadmission screening team under item A ~~and or~~ who has received a prior preadmission screening, and for whom the assessment required under this subpart has not been performed by the preadmission screening team within ten working days before or ten working days after the date the applicant is admitted to the nursing home. The nursing home must perform the assessment and submit the forms to the Department of Health within 15 working days after admission.

G. The preadmission screening team or hospital screening team under contract with the county must provide the completed assessment form to the ~~nursing home~~ Department of Health, and provide a copy to the ~~Department of Health nursing home~~, within five working days following the assessment.

Subp. 2. Assessment of residents for July 1, 1985, rate year. For the July 1, 1985, rate year only, each nursing home must assess each resident whose name does not appear on the Department of Health's May 15, 1985, classification list under the procedures prescribed by subpart 3, item B. The nursing home must submit a request for classification for each resident assessed by the nursing home to the Department of Health by June 1, 1985. The request for classification must include the completed assessment form and the resident's plan of care. For any resident admitted after June 1, 1985, the procedure outlined in subpart 1 must be followed. For any nursing home whose annual QAR assessment occurred between May 1, 1985, and June 30, 1985, the classification established under part 4656.0030, subpart 3, shall apply.

Subp. 3. Semiannual assessment by nursing homes. Semiannual assessments of residents by the nursing home must be completed in accordance with items A to E.

D. Any change in resident class due to a semi-annual assessment must be effective as of the first day of the month following the date of the ~~Department of Health's classification completion of the semiannual assessment~~.

Subp. 5. Assessment upon return to the nursing home from a hospital. Residents returning to a nursing home after hospitalization must be assessed according to items A to C.

B. A registered nurse shall perform the assessment on each resident according to QAR procedures established by the Department of Health, including physical observation of the resident, review of the medical plan of care, and review of the resident's plan of care, and shall record the assessment on the assessment form defined in part 9549.0051 [Temporary], subpart 2. The registered nurse who performs the assessment shall sign the assessment form. Within five working days of the completion of the assessment, the nursing home must forward to the Department of Health a request for a classification for any resident assessed upon return to a nursing home after a hospital admission. This request must include the assessment form, ~~the hospital discharge summary~~, and the resident's medical plan of care. Upon request, the nursing home must furnish the Department of Health with further information when required in order to determine a resident's classification.

Subp. 6. Change in resident class due to audits of assessments of nursing home residents. Any change in resident class due to a reclassification required by part ~~4656.0060~~ 4656.0050 must be effective as of the first day of the month following the date of the Department of Health's classification.

Subp. 9. Resident access to assessments and documentation. The nursing home must provide each nursing home resident or the resident's authorized representative with a copy of the assessment form and any other documentation provided to the Department of Health in support of the assessment within one working day of receipt of a written or verbal request from the resident or the resident's authorized representative.

Board of Nursing

Adopted Rules Relating to Licensure

The rules proposed and published at *State Register*, Volume 9, Number 35, page 1944, February 25, 1985 (9 S.R. 1944) are adopted as proposed.

OFFICIAL NOTICES

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

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

Department of Administration Cable Communications Board

Recommendations Accepted for Nominees for Board of Directors General Public Members for a VHF Channel 6 Non-Profit Corporation

As authorized by Minnesota Statutes 238.05, Subd. 2. (c) and (d), the Cable Board will designate an entity to schedule programs and facilitate use of a uniform regional channel to be seen on VHF Channel 6 on cable systems in the Twin Cities Metropolitan Area.

The Board expects to designate for this purpose a newly created, independent non-profit corporation whose first board of directors will be appointed by the Board at its June 14, 1985 meeting beginning at 9:00 a.m. The 15 directors are to be representative of the following interests and shall serve without compensation for staggered terms of 3 years:

- Franchising authorities (2) recommended by Association of Metropolitan Municipalities
- Franchisees (1) recommended by Minnesota Cable Communications Association
- Metropolitan Council (1) recommended by Metropolitan Council
- Higher Education (1) recommended by Higher Education Coordinating Board
- K-12 Education (1) recommended by Minnesota Board of Education
- Libraries (1) recommended by Metronet
- General Public (i.e. non-institutional) (8) recommended by Cable Board.

The Cable Board welcomes recommendations for the 8 general public member appointees, preferably before the June 14, 1985 meeting. Names of nominees should be submitted to:

W. D. Donaldson, Executive Director
Minnesota Cable Communications Board
500 Rice Street
Saint Paul, MN 55103
Telephone: (612) 296-2545.

There are no specific qualifications other than residence in the Metropolitan Area, nor are there application forms.

May 31, 1985

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

**Department of Energy and Economic Development
Energy and Economic Development Authority**

**Public Hearing on Proposed Project and Issuance of Bonds Under Minnesota Statutes,
Chapter 116M, Exclusive—Equity Investors of Crookston, Incorporated**

NOTICE IS HEREBY GIVEN that the Minnesota Energy and Economic Development Authority (the "Authority"), shall meet on June 26, 1985, at 3:00 p.m. o'clock, at 900 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota, for the purpose of conducting a public hearing on a proposed issue of bonds (the "Bonds") under *Minnesota Statutes*, Chapter 116M, as amended and supplemented (the "Act"), to undertake and finance a project on behalf of Equity Investors of Crookston, Inc., a Minnesota corporation (the "Company") or another entity of substantially similar ownership (the "Company"). Such persons as desire to be heard with reference to said issue of Bonds will be heard at this meeting.

The project to be financed consists of the construction of an approximately 35,000 sq. ft. new building on land to be acquired by the Company and the equipping thereof for use in connection with the leasing of these facilities to American AeroStar Corporation which, in the course of business, will utilize these facilities to manufacture fiberglass rotorblades to be used in wind turbines to generate electricity, to be located in the City of Crookston, Polk County, Minnesota (general description of location: at the south-eastern corner of the intersection of Third Avenue S.W. and Bruce Street in the City of Crookston, Polk County, Minnesota) (the "Project"). The initial owner of the Project will be the Company, and the Project is expected to be operated and managed by American AeroStar Corporation. The estimated maximum amount of the Authority's proposed bond issue is an amount equal to \$1,141,000. The Bonds shall be limited obligations of the Authority, and the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, except that such Bonds may be secured by a mortgage or security interest or other security arrangements to be created by the Company if subsequently required by the Authority. In addition, the Bonds and the Project may subsequently be considered by the Authority for financial assistance to be provided by the Energy Development Fund, created and established pursuant to the Act or other applicable financial assistance of the Authority. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

A copy of the application to the Authority for approval of the Project, together with all attachments and exhibits thereto and a copy of the Authority's resolution accepting the application and accepting the Project is available for public inspection at the offices of the Authority at 900 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

By Order of the Members of the
Minnesota Energy and Economic
Development Authority,

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

**Energy and Economic Development Department
Energy and Economic Development Authority**

**Public Hearing on Proposed Project and Issuance of Bonds Under Minnesota Statutes,
Chapter 116M, Exclusive—Hastings**

NOTICE IS HEREBY GIVEN that the Minnesota Energy and Economic Development Authority (the "Authority"), shall meet on June 26, 1985, at 3:00 p.m. o'clock, at 900 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota, for the purpose of conducting a public hearing on a proposed issue of bonds (the "Bonds") under *Minnesota Statutes*, Chapter 116M, as amended and supplemented (the "Act"), to undertake and finance a project on behalf of the City of Hastings, Minnesota (the "City"). Such persons as desire to be heard with reference to said issue of Bonds will be heard at this meeting.

The project to be financed consists of the construction and equipping of a low-head hydroelectric facility on an existing dam owned by the Federal government (and operated and maintained by the U.S. Army Corps of Engineers), to be located in the City of

Hastings, Washington and Dakota Counties, Minnesota (general description of location: at the existing Locks and Dam No. 2 on the Mississippi River in the City of Hastings, Washington and Dakota Counties, Minnesota) (the "Project"). The initial owner of the Project will be the City, and the Project is expected to be operated and managed by the City or its agent. It is contemplated that the electricity produced by the Project will be sold to Northern States Power Company pursuant to a long-term output contract. The estimated maximum amount of the Authority's proposed bond issue is an amount equal to \$6,500,000. (In addition, the City has indicated that it expects to finance the remaining balance of the costs of the Project by the issuance of its general obligation bonds of the City (which bonds may also be payable from the revenues of the Project) in the approximate principal amount of \$3,000,000.) The Bonds shall be limited obligations of the Authority, and the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, except that such Bonds may be secured by a mortgage or security interest or other security arrangements to be created by the City if subsequently required by the Authority. In addition, the Bonds and the Project may subsequently be considered by the Authority for financial assistance to be provided by the Energy Development Fund, created and established pursuant to the Act or other applicable financial assistance of the Authority. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

A copy of the application to the Authority for approval of the Project, together with all attachments and exhibits thereto and a copy of the Authority's resolution accepting the application and accepting the Project is available for public inspection at the offices of the Authority at 900 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

May 31, 1985

By Order of the Members of the
Minnesota Energy and Economic
Development Authority,

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

Department of Energy and Economic Development Financial Management Division

Availability of Issuance Authority in Competitive Pool

Pursuant to Minn. Laws 1984, ch. 582 § 17, subd. 2, to be codified as 474.20, the Department gives notice that the amount of Industrial Development Bond issuance authority available in the Competitive Pool as of June 5, 1985, is \$325,000.00 and will be available to qualifying Industrial Development Bond Issuers submitting qualification criteria applications by June 20, 1985. Pursuant to Minn. Laws 1984, ch. 582 § 16, to be codified as 474.19, non Entitlement Issuers must submit an application, a preliminary resolution, an application deposit and any other supporting documents required.

Balance of Competitive Pool on May 5, 1985 — \$175,000.00

Add:

Unused Entitlement Allocations as of August 31, 1984: \$ N/A

Returned Allocations: \$150,000.00

Total Pool Available as of June 5, 1985: \$325,000.00

Allocations awarded from the Competitive Pool during the month ending June 5, 1985, are:

| <u>Issuer</u> | <u>Project</u> | <u>No. of Pts.</u> | <u>Amount</u> |
|---------------|----------------|--------------------|---------------|
|---------------|----------------|--------------------|---------------|

None

Total Allocations Awarded: \$ None

Amount of Issuance Authority Available as of
June 5, 1985: \$325,000.00

OFFICIAL NOTICES

Department of Human Services

Outside Opinion Sought Concerning Proposed Licensing Standards for Supportive Living Residences

Notice is hereby given that the Department of Human Services is seeking information or opinions from sources outside the agency in preparing a new rule on Licensing Standards for Supportive Living Residences for functionally impaired adults pursuant to Minnesota Statutes 245.782, subdivision 6 and 14 and 245.802, subdivision 1a. The new proposed rule, parts 9545.2500 to 9545.2590, shall govern the licensing standards and process to ensure that functionally impaired adults, not residing in a residential facility with a nursing home, health care, treatment or program license, are cared for in an environment that assures their health, safety, and protection; that functionally impaired adults needing treatment or health care are referred to the appropriate treatment or health care facilities; and that the concentration of Supportive Living Residences in any one region or neighborhood is discouraged.

All interested or affected persons or groups are invited to submit statements of information in writing or comment orally to:

Jane Nelson
Rules Unit
Department of Human Services
4th Floor Centennial Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone 612 297-1217

All statements of information and comment shall be accepted until further notice. Any written material received by the Department shall become part of the record in the event that the rules are promulgated.

Department of Labor and Industry

Correction to Prevailing Wage Rates

The prevailing wage rates certified February 1, 1985 for Plasterers and Lathers in Koochiching county for Commercial construction projects was certified in error.

The correct rate, effective May 28, 1985, may be obtained by contacting the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155.

Steve Keefe, Commissioner
Department of Labor & Industry

Metropolitan Council

Public Hearing on Amendments to Part 1, Water Resources Management Development Guide

The Metropolitan Council will hold a public hearing on Monday, July 8, 1985 at 5:00 p.m. in the Metropolitan Council Chambers, 300 Metro Square Building, 7th and Robert Streets, St. Paul, MN for the purpose of receiving public comments on Part 1 of the Water Resources Management Development Guide.

The amendments are being proposed to comply with terms of the National Pollution Discharge Elimination System permits on combined sewer overflow (CSO). The permittees include the Metropolitan Council, the Metropolitan Waste Control Commission, and the cities of St. Paul, Minneapolis and South St. Paul. The amendments incorporate the preferred sewer separation solution on an accelerated schedule into the Metropolitan Council's sewage treatment policy and system plan sections of the Water Resources Management Development Guide, Part 1.

All interested persons are encouraged to attend the public hearing and offer comments on the proposed amendments. Persons wishing to speak should register in advance by contacting Lucy Thompson at 291-6521. Written comments will be accepted until July 22, 1985. Questions on the proposed amendments should be directed to Chuck Ballentine at 291-6381. Copies of the amend-

ments are available free of charge from the Council's Communications Department at 291-6464. Copies are also available for public inspection beginning June 7 at the following locations:

Metropolitan Council Library
300 Metro Square Building
St. Paul, Minnesota 55101

Minneapolis Public Library
Government Documents Room
300 Nicollet Mall
Minneapolis, Minnesota 55401

St. Paul Public Library
Science and Industry Room
90 West Fourth Street
St. Paul, Minnesota 55102

Anoka County Library—Blaine Branch
707 Highway 10
Blaine, Minnesota 55434

Carver County Library—Chaska Branch
314 Walnut Street
Chaska, Minnesota 55318

Dakota County Library—Burnsville Branch
1101 West County Road 42
Burnsville, Minnesota 55337

Hennepin County Library—Southdale Branch
7001 York Avenue South
Edina, Minnesota 55435

Ramsey County Library—Roseville Branch
2180 North Hamline Avenue
Roseville, Minnesota 55113

Scott County Library—Shakopee Branch
235 South Lewis Street
Shakopee, Minnesota 55379

Washington County Library—Park Grove Branch
7520-80th Street South
Cottage Grove, Minnesota 55106

Sandra S. Gardebring, Chair
Metropolitan Council

Metropolitan Council

Review Schedule—Amendment to Recreation Open Space Capital Improvement Program

The Hennepin County Park Reserve District has requested that the Metropolitan Council reallocate funds approved in Group 4 of the 1983–84 Recreation Open Space Capital Improvement Program. The original approval was for development grants for water quality studies, at \$25,000 each, for three lakes with regional parks adjacent—Medicine, Fish and Eagle Lakes. The district request is to reallocate the \$75,000 to carry out swimming area improvements at Lake Rebecca Park Reserve and Cleary Lake Regional Park.

The following is a tentative schedule for review of the proposed amendment to the Metropolitan Council's Recreation Open Space Capital Improvement Program.

| | |
|---------|---|
| May 20 | Metropolitan Parks and Open Space Commission recommends public hearing. |
| June 3 | Metropolitan Systems Committee recommends public hearing. |
| June 13 | Metropolitan Council sets public hearing date. |

OFFICIAL NOTICES

| | |
|-----------|--|
| July 15 | Metropolitan Systems Committee conducts public hearing. |
| July 29 | Hearing record closes. |
| August 12 | Metropolitan Parks and Open Space Commission reviews hearing record and considers staff recommendations. |
| August 19 | Metropolitan Systems Committee takes action on commission recommendations. |
| August 29 | Metropolitan Council action. |

This schedule is tentative and subject to change. A subsequent notice of public hearing will be published. If you have any questions regarding the schedule or amendment, call Jack Mauritz of the Council's Parks and Environmental Planning staff at 291-6602.

Metropolitan Council

Review Schedule—Environmental Assessment Worksheet for Metro Plant Ash Disposal and Park Development

The Metropolitan Waste Control Commission has made a request to the city of St. Paul for a special use permit to place approximately 320,000 cubic yards of sludge ash on the old Pig's Eye Landfill. The site would be revegetated for use as part of Battle Creek Regional Park. The project is being proposed in order to empty the four existing sewage sludge ash basins located adjacent to the Metropolitan Wastewater Treatment Plant. The Metropolitan Council must rule on the adequacy of the EAW before the project may proceed.

The following is a tentative schedule for review of the EAW:

| | |
|-----------|---|
| May 21 | Metropolitan Solid Waste Advisory Committee reviews EAW |
| June 5 | Environmental Resources Committee reviews EAW |
| June 13 | Metropolitan Council adopts EAW for public meeting purposes |
| July 17 | Public meeting on adequacy of EAW |
| July 31 | Comment period closes |
| August 13 | Metropolitan Solid Waste Advisory Committee approves EAW |
| August 14 | Environmental Resources Committee approves EAW |
| August 22 | Metropolitan Council approves EAW |

This schedule is tentative and subject to change. A subsequent public meeting notice will be published. If you have questions regarding the schedule or EAW, call Jack Frost of the Council's Parks and Environmental Planning Staff at 291-6519.

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612)296-2805. Application deadline is July 2, 1985.

MINNESOTA HUMANE SOCIETY BOARD OF DIRECTORS has 1 vacancy open immediately for a member. The directors enforce laws preventing cruelty to animals; make rules governing the humane care, treatment, and transportation of animals. 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 Minnesota Humane Society Board of Directors, 529 Jackson Street, St. Paul 55101; (612)296-3613.

HAZARDOUS WASTE MANAGEMENT PLANNING COUNCIL has 5 vacancies open immediately for 2 local government representatives and 3 citizen representatives. The council makes recommendations to the Waste Management Board on planning for and siting of hazardous waste processing and disposal facilities. Members are appointed by the Chairperson of the Waste Management Board. Monthly meetings. Members are compensated for expenses. For specific information contact the Hazardous Waste Management Planning Council, 123 Thorson Bldg., 7323 58th Ave. N., Crystal 55428; (612)536-0816.

ELEMENTARY-SECONDARY-VOCATIONAL (ESV) COMPUTER COUNCIL has 1 vacancy open immediately for a rural school district administrator. The council advises and assists the State Board of Education in the development of plans and standards for ESV-IS (elementary, secondary and vocational education management information systems) and SDE-IS (State Department of Education Information System). Members are appointed by the Governor. Members receive \$35 per diem. For specific information contact the Elementary-Secondary-Vocational (ESV) Computer Council, Board of Education, Capitol Square Bldg., 550 Cedar St., St. Paul 55101; (612)297-3151.

REHABILITATION REVIEW PANEL has 1 vacancy open immediately for an employer representative. There are 3 vacancies open for the following: 1 labor representative; 1 employer/insurer representative; 1 medical/chiropractor/rehabilitation representative. These 3 members will serve one-year terms as alternates to the Rehabilitation Review Panel when Panel members are unavailable for hearings. The panel reviews rehabilitation plans and rules; advises the Commissioner of Labor and Industry. Members must file with EPB. Compensation for members is governed by section 15.0575. For specific information contact the Rehabilitation Review Panel, Dept. of Labor and Industry, Office of Public Affairs, Space Center, 444 Lafayette Road, St. Paul 55101; (612) 297-4374.

MEDICAL SERVICES REVIEW BOARD has 8 vacancies open immediately for 3 physicians specializing in orthopedics, neurology, and family practice or internal medicine; 1 hospital administrator, 1 chiropractor, 1 employee member, 1 employer/insure member and 1 public member. These members will serve one-year terms as alternates to the Medical Services Review Board when members are not available for hearings. The board advises the department on medical matters relating to workers compensation and hears appeals on decisions of the department on medical matters relating to workers compensation and hears appeals on decisions of the department. Members are appointed by the Commission of Labor and Industry. Members must file with EPB. Members receive \$35 per diem plus expenses. For specific information contact the Medical Services Review Board, Dept. of Labor and Industry, Office of Public Affairs, 444 Lafayette Rd., St. Paul 55101, (612)297-4373.

STATE COMPENSATION INSURANCE FUND has 1 vacancy open immediately for a public or employee member. The board has control and management of the fund created as a nonprofit, independent public corporation to insure employers against liability for personal injuries to employees. Members are appointed by the Governor and confirmed by the Senate. Meetings: quarterly. Members receive \$500 annual stipend, \$100 per meeting. For specific information contact the State Compensation Insurance Fund, Andy Meuwissen, 660 France Ave. S., Suite 562, Edina 55435; (612)925-3850.

Department of Transportation

Petition of Swift County for a Variance from State Aid Standards for Bridge Width

Notice is hereby given that the County Board of Swift County has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a resurfacing project on CSAH 20 from TH 12 to TH 59.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9914 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a bridge width of 23 feet instead of the required 24 feet.

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

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

May 31, 1985

Richard P. Braun
Commissioner of Transportation

State Council on Vocational Technical Education

Notice of Meeting

The State Council on Vocational Technical Education will meet at 1:30 p.m. on Wednesday, June 26, 1985 at The Saint Paul Hotel, 350 Market Street, St. Paul, Minnesota. The public is welcome. Inquiries regarding the meeting may be directed to the Council Offices at 612/377-6100.

Waste Management Board

Outside Opinion Sought Concerning Amendment of Rules Governing the Hazardous Waste Reduction Grants Program

Notice is hereby given that the Waste Management Board is seeking opinions and information from outside the agency for the purpose of amending adopted rules governing the hazardous waste reduction grants program (Minnesota Rules 9200.9500 to 9200.9508). The rules were published in the *State Register* at 9 S.R. 328 on August 13, 1984. The rules were adopted under the authority of Minnesota Statutes § 115A.154 (1984).

Under Minnesota Statutes § 115A.154 (1984), the Waste Management Board is authorized to make grants to generators of hazardous waste in the State for studies to determine the feasibility of applying specific methods and technologies to reduce the generation of hazardous waste.

At this time, the Board is requesting opinions and comments on the rules currently in effect for the program and suggestions for amendments. Opinions and comments are specifically requested on the types and amount of information required by the grant application and the type of projects eligible under the current grant program. The Board wishes to assure that small businesses generating hazardous waste have a reasonable opportunity to qualify for and receive grants under this program and that the grant rules do not unnecessarily deter small businesses from pursuing and utilizing waste reduction grants. Therefore, comments are especially encouraged by small businesses which generate hazardous waste in Minnesota.

Any person desiring to submit information or comments on the existing rules or suggestions for amending the rules may do so in writing. All statements of information or comment must be received by June 21, 1985. Any material received by the date will become part of the rulemaking record. Written information or comment should be addressed to:

Ken Stabler
Waste Management Board
123 Thorson Community Center
7323 58th Avenue North
Crystal, Minnesota 55428
(612) 536-0816

Robert G. Dunn, Chairman
Waste Management Board

STATE CONTRACTS

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

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

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

| Requisition # | Item | Ordering Division | Delivery Point | Estimated Dollar Amount |
|--------------------|--|----------------------------------|----------------|-------------------------|
| Various | Influenza Vaccine | Various | Various | Contact buyer |
| 79-000-47081 | Lease of Weather Radar System | Transportation | Alexandria | Contact buyer |
| 07-700-33874 | Furnish & Install Demountable Partition Offices | Public Safety | St. Paul | Contact buyer |
| 32-300-12592 | Rehabilitate Wells | Pollution Control Agency | Various | Contact buyer |
| 26-070-11154, 8684 | Undergraduate Catalogs | Bemidji State University | Bemidji | Contact buyer |
| 26-071-15168, 8836 | Extended Campus Class Schedule, Fall, Winter, Spring, Summer Session | Mankato State University | Mankato | Contact buyer |
| 79-000-46906 | Laboratory Cabinetry and Furniture | Transportation | Minneapolis | Contact buyer |
| 32-100-12580 | Desolved Oxygen Meter | Pollution Control Agency | Roseville | Contact buyer |
| 79-000-46826 | Cupboard Cabinet | Transportation | St. Paul | Contact buyer |
| 04-111-27666 | Lab Refrigerator | Agriculture | St. Paul | Contact buyer |
| 27-145-46375 | Microscope Stand | Willmar Community College | Willmar | Contact buyer |
| 29-000-40019 | Transfer Scope | Natural Resources | Grand Rapids | Contact buyer |
| 29-000-40022 | Breath Test Screening Device | Natural Resources | St. Paul | Contact buyer |
| 32-200-12565 | Mercury Analyzer | Pollution Control Agency | Roseville | Contact buyer |
| 26-071-15104 | Assay Reader | Mankato State University | Mankato | Contact buyer |
| 26-073-17759 | Liquid Scintillation System | St. Cloud State University | St. Cloud | Contact buyer |
| 26-070-11155 | Gas Chromatograph | Bemidji State University | Bemidji | Contact buyer |
| 29-000-37879 | Fish Toxicant | Natural Resources | Ashly | Contact buyer |
| 07-200-33789 | Dosimeters | Public Safety | St. Paul | Contact buyer |
| 29-000-37880 | Fish Toxicant | Natural Resources | Glenwood | Contact buyer |
| 43-000-06036 | Telephone System | Iron Range Interpretative Center | Chisholm | Contact buyer |
| 78-830-07634 | Mattress Springs Unit | MN Correctional Facility | St. Cloud | Contact buyer |
| Various | Radiation Film Badges | Various | Various | Contact buyer |
| Various | Feminine Sanitary Products | Various | Various | Contact buyer |
| 55-000-91176 | Reconditioned Lektriever | Human Services | St. Paul | Contact buyer |

STATE CONTRACTS

| Requisition # | Item | Ordering Division | Delivery Point | Estimated Dollar Amount |
|----------------------|--|---|----------------|-------------------------|
| 26-175-06116 | Rubbish Disposal Contract | Southwest State University | Marshall | Contact buyer |
| Contract | Snow Removal | Austin Community College | Austin | Contact buyer |
| Contract | Guard Uniform Clothing | MN Correctional Facility | Various | \$50,000-60,000 |
| Contract | Steel Office Furniture Contract | All State Agencies | Various | Contact buyer |
| 30-000-15149 | Purchase of Memory Boards | State Planning Agency | St. Paul | Contact buyer |
| 78-890-01646 | Engine Analyzer | Corrections—Willow River Camp | Willow River | Contact buyer |
| Rebid | | | | |
| 79-000-47081 | Addendum #1 Lease of Weather Radar System | Transportation | Alexandria | Contact buyer |
| 26-074-10188 & 10178 | Metalarc Lamp | Winona State University | Winona | Contact buyer |
| 26-072-09216, etc. | Football Equipment | Various | Various | Contact buyer |
| Contract | Snow Removal | Brainerd Community College | Brainerd | Contact buyer |
| 02-307-45978 | Trailer | Administration—Grounds Services Division | St. Paul | Contact buyer |
| 79-000-46898 | Fuel Pumps | Transportation | Various | Contact buyer |
| Contract | General Office Pencils & Mechanical Pencils | Administration—Central Stores | Same | \$1,700-2,000 |
| 29-000-37925 | Addendum #1 All Terrain Vehicle | Natural Resources | Grand Rapids | Contact buyer |
| 55-201-06184 | Refrigerators | Cambridge State Hospital | Cambridge | Contact buyer |
| Rebid | | | | |
| 78-830-07505 | Frozen Fish & Shrimp | MN Correctional Facility | St. Cloud | Contact buyer |
| 78-550-04858 | Paving & Seal Coating | MN Correctional Facility | Lino Lakes | Contact buyer |
| Various | Poultry & Poultry Products for July, August, September 1985 | Various | Various | Contact buyer |
| Various | Meat & Meat Products for the Month of July 1985 | Various | Various | Contact buyer |
| Contract | Offset Supplies | Various | Various | \$70,000-75,000 |
| 79-150-00378, etc. | Reboundable Plastic Drum-Like Channelizers w/Reflective Sheeting | Transportation | Various | Contact buyer |
| 21-602-83948 | Furnish & Install Van Lift | Economic Security—Vocational Rehabilitation | Golden Valley | Contact buyer |
| 29-000-40043 | Used All Terrain Vehicle | Natural Resources | Grand Rapids | Contact buyer |
| Rebid | | | | |
| Rebid Contract | Uniform Coveralls Contract | Public Safety—State Patrol | Various | \$11,000-12,000 |
| 79-500-02868 | Lease of Weather Radar System | Transportation | Minneapolis | Contact buyer |
| 79-150-00384, etc. | Sign Holders & Accessories | Transportation | Various | Contact buyer |
| 78-000-15102 | Move of Office Furniture & Equipment | Corrections | St. Paul | Contact buyer |
| 55-101-06193 | Supply & Install Linoleum Floor | Human Services—Fergus Falls State Hospital | Fergus Falls | Contact buyer |
| 53-000-01466-67 | Purchase of Photocopy Machine | Secretary of State | St. Paul | Contact buyer |

Contact 296-6152 for referral to specific buyers.

Department of Corrections Minnesota Correctional Facility—Lino Lakes

Request for Proposals for Evaluation of Inmates on Psychotropic Medications

In order to comply with state law, the Minnesota Correctional Facility—Lino Lakes hereby publishes its intention to contract with a licensed psychiatrist to provide the following service:

Evaluate specific inmates referred by caseworkers and other professional staff for the purpose of administering psychotropic medications. He will prescribe, review and/or alter prescriptions as required to assist inmates control their behavior and maintain adjustment in the institution program. He will monitor, on a monthly basis, the effect of such medications and note changes in behavior.

The consultant will normally be used for four hours per month, with a maximum limit of 48 hours per year.

Experience working with adult correctional inmates is required. The maximum contract amount will not exceed \$3,600 per year.

Proposals must be directed to William J. McGrath, Business Manager, Minnesota Correctional Facility—Lino Lakes, 7525 Fourth Avenue, Lino Lakes, MN 55014, no later than June 24, 1985.

Higher Education Coordinating Board

Request for Proposals for Graphic Arts and Design Services

The Higher Education Coordinating Board is requesting proposals from qualified graphic designers for consulting services to provide assistance for Fiscal Year 1986 with an option to renew the contract for Fiscal Year 1987. The estimated amount of the contract for Fiscal Year 1986 will be up to \$6,000. Proposals, including hourly rate schedules, must be submitted no later than June 21, 1985.

Proposals and inquiries should be directed to:

Higher Education Coordinating Board
Director of Communications
400 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
(612) 296-9684

Department of Human Services Moose Lake State Hospital

Request for Proposals for Medical Services—Psychiatry, Radiology and Physical/Internal Medicine

Notice is hereby given that the Moose Lake State Hospital, Mental Health Bureau, Department of Human Services, is seeking the following services for the period July 1, 1985 thru June 30, 1985. These services are to be performed as requested by the Administration of the Moose Lake State Hospital.

1) Services of medical doctors specializing in psychiatry so that accurate diagnosis and proper treatment is provided especially in the use of chemical therapy. The estimated amount of the contract is \$23,400.00.

2) Services of a Radiologist to interpret X-Ray films taken by the Hospital's X-Ray Technician. The estimated amount of the contract is \$14,500.00.

STATE CONTRACTS

3) Services of a specialist in Physical & Internal Medicine to perform consultation services at the Moose Lake State Hospital. The estimated amount of the contract is \$26,000.00.

Responses to the above services must be received by June 30, 1985.

Direct inquiries to: Frank R. Milczark
Chief Executive Officer
Moose Lake State Hospital
Moose Lake, MN 55767
(218) 485-4411 Ext 242

Department of Human Services St. Peter State Hospital

Request for Proposals for Medical Services—Psychiatry, Physical Therapy, Anesthesiology, Sign Language, and Psychology

Notice is hereby given that the St. Peter State Hospital, Residential Facilities Administration, Department of Human Services, is seeking the services which are to be performed as requested by the Administration of St. Peter State Hospital. The following contracts will be written for the period July 1, 1985 thru June 30, 1986.

1. Services of a board certified psychiatrist to provide services to the character disordered population with special expertise in destructive forms of unstable character disorder. The estimated amount of the contract will not exceed \$18,720.
2. Services of two board certified psychiatrists to provide expertise in the area of psychopharmacology. The estimated amount of each contract will not exceed \$18,720.
3. Services of a board certified psychiatrist to provide specialized consultation in the area of aggressive forensic patients. The estimated amount of the contract will not exceed \$18,720.
4. Services of a psychiatrist to examine and evaluate persons referred to the Intensive Treatment Program for Sexual Aggressives. The estimated amount of the contract will not exceed \$32,760.
5. Services of two individuals certified in the art of signing, to serve the needs of the hearing impaired. One contract will not exceed \$15,600 the other will not exceed \$30,600.

The following contracts will be written for the period July 1, 1985 thru June 30, 1986, with option to renew for one year period ending June 30, 1987.

6. Services of a physical therapist to provide assessment and recommendations of treatment. The estimated amount of contract will not exceed a total of \$35,000 for the two year period.
7. Services of an anesthetist to provide services for ECT treatment. The estimated amount of the contract will not exceed a total of \$30,510 for the two year period.
8. Services of a psychiatrist to provide psychiatric assessment with emphasis on use of psychotropic medications. The estimated amount of contract will not exceed a total of \$70,200 for the two year period.
9. Services of a psychologist to provide psychological evaluations and examinations of the Chemical Dependent population. The estimated amount of the contract will not exceed a total of \$37,500 for the two year period.
10. Services of a psychiatrist to provide general psychiatric care, including diagnosis, treatment, progress notes and periodic assessments. The estimated amount of the contract will not exceed a total of \$62,400 for the two year period.

Responses must be received by July 1, 1985. Direct inquiries to:

Tom Bolstad
St. Peter State Hospital
100 Freeman Drive
St. Peter, MN 56082
Phone: 507 931 7116

Iron Range Resources and Rehabilitation Board

Request for Proposals from Minnesota Advertising and Public Relations Firms

The IRRRB intends to engage a qualified, professional firm to provide public promotion and advertising for selected tourism related projects located within the Taconite Tax Relief Area of northeastern Minnesota.

Specific areas of responsibility shall include the following:

- A. Development of a program of printed advertising for use in newspapers, magazines, and billboards.
- B. Development of a program of audio and/or video commercials for use in radio and television advertising.
- C. Development of a program of public service announcements for use in all media.
- D. Coordination of the entire advertising program through the development of a media plan and purchase of time and space.
- E. Recommendations concerning areas of concentration for promotion and publicity.

For further information and formal RFP documents, contact Mr. Richard Nordvold, Information Officer, IRRRB, P.O. Box 392, Chisholm, Minnesota 55719. (218) 254-3323. Cost estimate for the program is \$200,000.

The deadline for receipt of proposals is 4:00 p.m., July 1, 1985.

Metropolitan Council

Request for Proposals on the Hennepin County Resource Recovery Project Environmental Impact Statement

The Metropolitan Council solicits proposals to prepare the Environmental Impact Statement (EIS) on the Hennepin County Resource Recovery Project. Hennepin County is proposing to construct a 1,000 ton-per-day waste to energy resource recovery project in Minneapolis and a system of four transfer stations. The project will produce steam and electricity and is expected to be operational in 1990. The Council is the responsible governmental unit for preparing the EIS.

All proposals received on or before July 10, 1985 at 3 p.m. will be considered by the Council. Businesses owned and operated by minorities, women and small businesses are encouraged to submit proposals. Copies of the request for proposal can be obtained by contacting the Metropolitan Council, 300 Metro Square Building, 7th and Robert Streets, St. Paul, Minn. 55101, attention: Paul Smith, (612) 291-6408.

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., July 10, 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 8-1/2" × 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.

STATE CONTRACTS

d) A commitment to enter the work promptly and to assign the people listed in "C" above and to supply other necessary staff.

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

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

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

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

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

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

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

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

a) Enclose a self-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—7-85

Parking Ramp—Health Sciences Area—East Bank University of Minnesota

Project Description

This parking ramp shall be designed to accommodate approximately 560 cars within four levels of parking and a construction budget of \$2,800,000.00. The parking ramp will be required to accommodate reserved, contract, and transient daily and hourly parking of patients and visitors to the University Hospitals. The number of spaces assigned to each category of parking will need to be adjustable to maximize the flexibility of use.

Project Location

The proposed parking ramp will be located on the southern half of the block bounded by Washington Avenue, Harvard Street, Delaware Street and Walnut Street. Four residences currently occupy the site.

Consultant Services

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

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 University System

Request for Proposals for Audit Services

Notice is hereby given that the State University System through its central office in St. Paul, is requesting interested parties to submit proposals for a biennial audit (1983-85) of its federal financial aids programs for the seven state universities located at Bemidji, Mankato, Moorhead, Marshall, St. Cloud, St. Paul, and Winona. The audit will include the two-year period ending June 30, 1985. The contract may be renewed for an additional two-year biennial audit period. Separate reports must be prepared for each university. Copies of the completed audit reports must be furnished by December 31, 1985.

Proposals must be submitted by mail or in person no later than 4:30 p.m. (cdst) June 24, 1985. Responders will be notified of the Board's decision by mail and/or telephone on June 26, 1985. The estimated amount of the contract will not exceed \$45,000. Copies of the complete RFP may be obtained by contacting:

Mr. Nick Lafontaine
Associate Vice Chancellor for Finance
Suite 230
555 Park Street
St. Paul, Minnesota 55103
(612) 296-3071

SUPREME COURT

Decisions of the Supreme Court Filed Friday, May 31, 1985

C9-82-1233 State of Minnesota v. Jody Bissell, Appellant. Mower County.

Defendant received a fair trial and was properly found guilty of attempted aggravated robbery.

Affirmed. Amdahl, C.J.

C3-83-931 State of Minnesota v. James William Lorenz, Appellant. Ramsey County.

Trial court did not err in refusing to allow defense counsel to question the informant under oath and in denying defendant's motion to suppress on Fourth Amendment grounds.

Evidence was sufficient to support defendant's convictions of drug offenses.

Affirmed. Amdahl, C.J.

ORDER FORM

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court and Tax Court decisions.

- _____ Annual subscription \$130.00
- _____ Trial subscription (13 weeks) \$40.00
- _____ Single copies \$3.25 each

Minnesota Guidebook to State Agency Services 1984-85. A 623-page guide to services provided by Minnesota agencies.

- _____ Single copy: \$12.50 + \$.75 tax = \$13.25* each

Minnesota Statutes 1984. 10-volume set.

- _____ Set: \$129.00 + \$7.74 = \$136.74.*
 - _____ Each volume: \$13.00 + \$.78 = \$13.78.
- No handling charge.

Minnesota Rules Supplement—1984. All rules adopted between 8/1/83-8/31/84.

- _____ \$15.00 + \$.90 = \$15.90.*
- No handling charge.

*To avoid Minnesota sales tax, please include your Certificate of Exempt Status issued by the Department of Revenue.

Please enclose full amount for items ordered; prepaid orders only. Make check/money order payable to "State of Minnesota." (Phone orders are taken only with a Mastercard/VISA charge number.)

EACH ORDER MUST INCLUDE \$1.50 POSTAGE AND HANDLING FEE.

State Register Binder. Durable 3½ inches, forest green binders imprinted with the *State Register* logo.

- _____ *State Register Binder* \$6.50 + \$.39 tax = \$6.89* each

State Register Index. Contains cumulative findings aids to Volume 8 of the *State Register*, including MCAR Amendments and Additions, Executive Orders List, Executive Orders Index, Agency Index, Subject Matter Index.

- _____ Single copy \$5.00

Worker's Compensation Decisions. Volume 37. Selected landmark decisions of the Worker's Compensation Court of Appeals. Annual subscription, quarterly updates.

- _____ Annual subscription \$85.00

Minnesota Outdoors Catalog—1985. Complete listing of material on the Minnesota outdoor activities. Bikeways, canoeing, county, lake and other maps. Books, charts, rules, laws, posters and more.

- _____ FREE COPY

Name _____

Attn of: _____

Street _____

City/State/Zip _____

Telephone # _____

CHANGE OF ADDRESS NOTICE

Please notify us as soon as your address changes so that we can continue to serve you.

OLD ADDRESS

NEW ADDRESS

Publication(s) you are receiving from us: _____

FOR LEGISLATIVE NEWS

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

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