

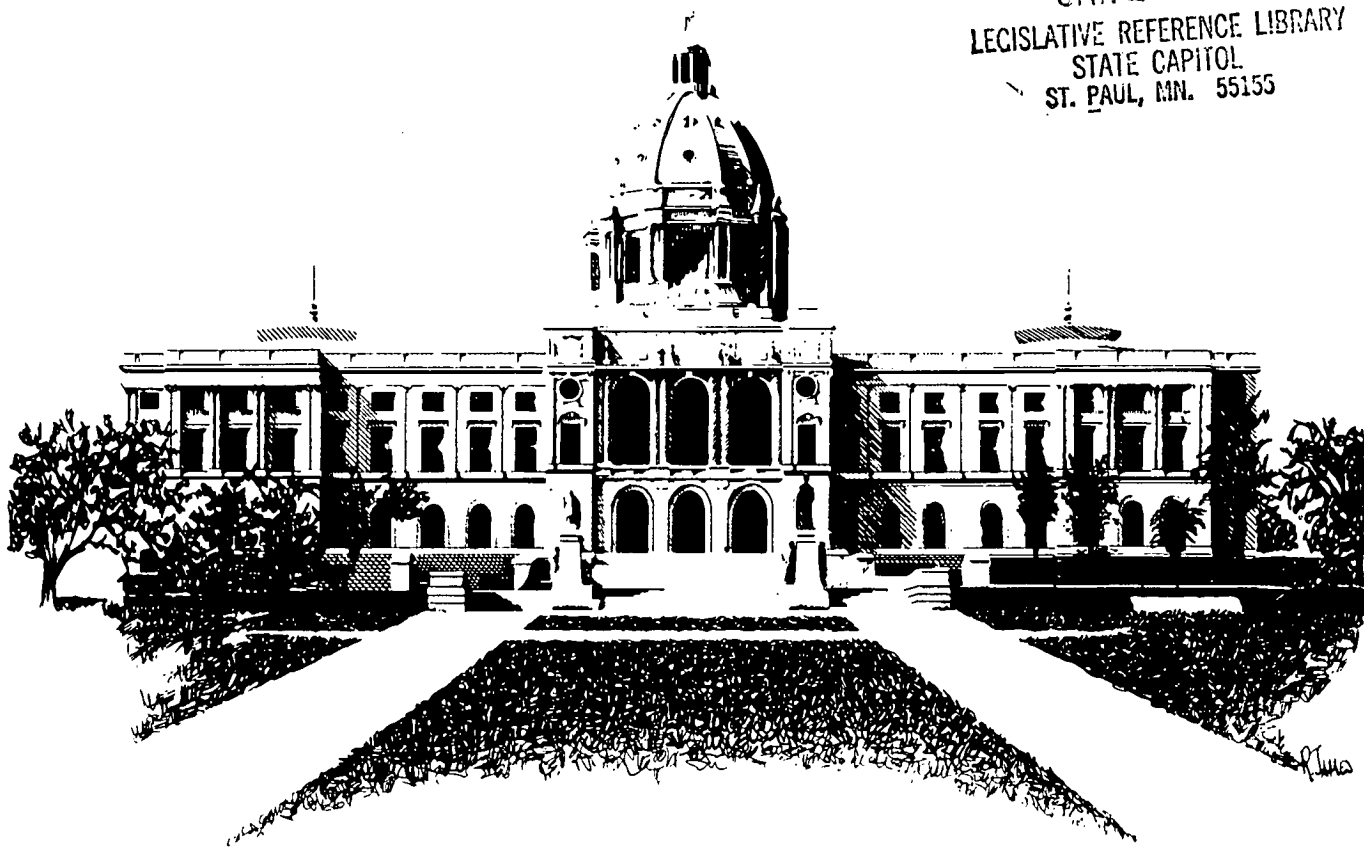
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STATE REGISTER

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STATE OF MINNESOTA

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VOLUME 10, NUMBER 29

January 13, 1986

Pages 1521-1552



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 10			
30	Monday January 6	Monday January 13	Monday January 20
31	Monday January 13	Friday January 17	Monday January 27
32	Friday January 17	Monday January 27	Monday February 3
33	Monday January 27	Monday February 3	Monday February 10

*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, 504 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.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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NOTICE

How to Follow State Agency Rulemaking Action in the State Register

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION** 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 April 8, 1985 are published in the *Minnesota Rules 1985*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after April 8, 1985 will be included in a supplement scheduled for publication in Spring, 1986. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the *State Register* but are generally not published in the *Minnesota Rules* 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 1985*.

MINNESOTA RULES AMENDMENTS AND ADDITIONS

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PROPOSED RULES

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

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

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

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

Department of Commerce

Proposed Rules Relating to Brokerage Services by Financial Institutions

Notice of Hearing

Notice is given that a public hearing will be held pursuant to Minnesota Statute Section 14.14, subdivision 1 (1984), in the above-entitled matter in the Large Hearing Room, 500 Metro Square Building, St. Paul, Minnesota 55101, on February 18, 1986 at 9:00 a.m. and continuing until all interested persons and groups have had an opportunity to be heard concerning adoption of these proposed rules by submitting either oral or written data, statements, or arguments. Statements, briefs or written material may be submitted within the comment period described in this notice without appearing at the hearing by sending them to the administrative law judge assigned to conduct the hearing, Administrative Law Judge Peter C. Erickson, 4th Floor, Summit Bank Building, 310 4th Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7606. The rule hearing procedure is governed by Minnesota Statute Section 14.14-14.20 and by Minnesota Rules Parts 1400.0200-1400.1200, as amended (amended rules published at 9 S.R. 2276). Questions regarding procedure may be directed to the Administrative Law Judge at the above-listed address.

PLEASE NOTE, HOWEVER, THAT THIS HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A HEARING PUBLISHED IN THE SAME *STATE REGISTER* AND MAILED THE SAME DATE AS THIS NOTICE.

The Commissioner proposes to adopt amendments to Securities Rules Regulating Financial Institutions, including Banks, Savings Institutions & Savings & Loan Associations, Securities Practices. The purpose of the rules is to extend to customers of financial institutions the protections found elsewhere in the securities industry. The rules were authorized by a change to Minnesota Statutes § 80A.14 subdivision 4 found at Laws of Minnesota for 1984, Chapter 552, Section 4. Additional authority is found in Minnesota Statutes § 80A.25, subdivision 1; Minnesota Statutes Section 80A.05 and Minnesota Statutes Section 45.023.

The rules will set the requirements, called for by Minnesota Statutes § 80A.14, subd. 4, for financial institutions to conduct securities activities. When financial institutions must be licensed, when they are exempt and how they must conduct such activities are described.

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

Pursuant to Minnesota Laws 1983, chapter 188 codified as Minnesota Statute Section 14.155, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Every small business having insurance will be affected by these rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

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

PROPOSED RULES

Written material may be submitted to the Administrative Law Judge and recorded in the hearing record for five working days after the public hearing ends. The comment period may be extended for a longer period not to extend 20 calendar days if ordered by the Administrative Law Judge at the hearing. Comments received during the comment period will be available for review at the Office of Administrative Hearings. Following the five to twenty day comment period, there will be a three day period in which the Commissioner and interested persons may respond in writing to any new information submitted. During the three day period, the agency may indicate in writing whether there are any amendments suggested by other persons which the agency is willing to adopt. Additional evidence may not be submitted during the three day period. The written responses will be added to the record of the proceeding.

Notice: Any person may request notification of the date on which the Administrative Law Judge's report will be available after which date the Department of Commerce 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 the State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Department of Commerce at any time prior to the filing of the rules with the Secretary of State.

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

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

December 22, 1985

Michael A. Hatch
Commissioner of Commerce

Notice of Intent to Adopt Rules without a Public Hearing

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

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and does not result in a substantial change.

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

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 telephone (612) 296-5689. Any person requesting a public hearing should state her or his name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

The Commissioner proposes to adopt amendments to rules concerning Securities Regulating Financial Institutions, including Banks, Savings Institutions & Savings & Loan Associations, Securities Practices. Authority for the adoption of these rules is the securities activities of financial institutions. The purpose of the rules is to extend to customers of financial institutions the protections found elsewhere in the securities industry. The rules were authorized by a change to Minnesota Statutes § 80A.14 subdivision 4.

Additional authority is found in Minnesota Statutes § 80A.25 subdivision 1; Minnesota Statutes Section 80A.05 and Minnesota Statutes Section 45.023.

Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

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

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

A copy of the proposed rules is attached to this notice. Copies of this notice and proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

Michael A. Hatch
Commissioner of Commerce

Rule as Proposed (all new material)

2875.1590 BANKS, SAVINGS INSTITUTIONS, AND SAVINGS AND LOAN ASSOCIATIONS.

Subpart 1. **Licensing requirement.** The term "broker-dealer" as defined in Minnesota Statutes, section 80A. 14, subdivision 4 includes a bank, savings institution, or savings and loan association that:

A. solicits brokerage business for which it receives transaction-related compensation, unless the bank, savings institution, or savings and loan association enters into a contractual or other arrangement with a broker-dealer licensed under Minnesota Statutes, chapter 80A pursuant to which the broker-dealer will offer brokerage services on or off the premises of the bank, savings institution, or savings and loan association provided that:

- (1) the broker-dealer is clearly identified as the person performing the brokerage services;
- (2) bank, savings institution, or savings and loan association employees perform only clerical and ministerial functions in connection with brokerage transactions unless the employees are licensed agents pursuant to Minnesota Statutes, chapter 80A;
- (3) bank, savings institution, or savings and loan association employees do not receive, directly or indirectly, compensation for any brokerage activities unless the employees are licensed agents pursuant to Minnesota Statutes, chapter 80A; and
- (4) the services are provided by the broker-dealer on a basis in which all customers are fully disclosed;

B. directly or indirectly receives transaction related compensation for providing brokerage services for trust, managing agency, or other accounts to which the bank, savings institution, or savings and loan association provides advice; provided, however, that this item does not apply if the bank, savings institution, or savings and loan association executes transactions through a broker-dealer licensed under Minnesota Statutes, chapter 80A and:

- (1) each account independently chooses the broker-dealer through which execution is effected;
- (2) bank, savings institution, or savings and loan association employees do not receive, directly or indirectly, compensation for any brokerage activities or compensation based upon the number of accounts choosing to use the broker-dealer; and
- (3) the brokerage services are provided by the broker-dealer on a basis in which all customers are fully disclosed;

C. deals in or underwrites securities.

Subp. 2. **Applicability.** This part shall not apply to any bank, savings institution, or savings and loan association that engages in one or more of the following activities only:

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

- A. effects transactions in commercial paper, bankers' acceptances, or commercial bills;
- B. effects transactions for the investment portfolio of affiliated companies;
- C. effects transactions as part of a program for the investment or reinvestment of deposit funds into any no-load open-end investment company registered pursuant to the Investment Company Act of 1940 that attempts to maintain a constant net asset value per share or has an investment policy calling for investment of at least 80 percent of its assets in debt securities maturing in 13 months or less;
- D. effects transactions as part of any bonus, profit-sharing, pension, retirement, thrift, savings, incentive, stock purchase, stock ownership, stock appreciation, stock option, dividend reinvestment, or similar plan for employees or shareholders of an issuer or its subsidiaries; or
- E. effects transactions pursuant to Minnesota Statutes, section 80A.15, subdivision 2, paragraph (g) and the rules adopted under that provision.

Subp. 3. **Exemptions.** The commissioner, upon written request, or upon a motion, may exempt a bank, savings institution, or savings and loan association, either conditionally or on specific terms and conditions, where the commissioner determines that the activities of the bank, savings institution, or savings and loan association are not within the intended meaning and purpose of this part.

Subp. 4. **Transaction related compensation.** For the purposes of this part, the term "transaction related compensation" means monetary profit in excess of cost recovery for providing brokerage execution services.

Department of Commerce

Proposed Rules Relating to Coordination of Benefits for Group Health and Accident Insurance

Notice of Hearing

Notice is given that a public hearing will be held pursuant to Minnesota Statute Section 14.14, subdivision 1 (1984), in the above-entitled matter in the Large Hearing Room, 500 Metro Square Building, St. Paul, Minnesota 55101, on February 20, 1986 at 9:00 a.m. and continuing until all interested persons and groups have had an opportunity to be heard concerning adoption of these proposed rules by submitting either oral or written data, statements, or arguments. Statements, briefs or written material may be submitted within the comment period described in this notice without appearing at the hearing by sending them to Administrative Law Judge, Howard Kaibel, 4th Floor, Summit Bank Building, 310 4th Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7608. The rule hearing procedure is governed by Minnesota Statute Section 14.14-14.20 and by Minnesota Rules Parts 1400.0200-1400.1200, as amended (amended rules published at 9 SR 2276). Questions regarding procedure may be directed to the Administrative Law Judge at the above-listed address.

The Commissioner proposes to adopt rules regarding Coordination of Benefits for Group Health and Accident Insurance. Authority for the adoption of these rules is contained in Minnesota Statutes Section 72A.19 and Section 45.023. A text of the proposed rules follows this notice in the *State Register*. These rules are not identical in all respects to the Coordination of Benefit Rules published in the *State Register* on September 16, 1985 (10 S.R. 676-684). The changes have been made to make the rules conform to Model Coordination of Benefit Rules of the National Association of Insurance Commissioners (NAIC).

The proposed rules, if adopted will govern the coordination of benefits payable to persons covered by more than one accident and health insurance plan.

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

Pursuant to Minnesota Laws 1983, chapter 188 codified as Minnesota Statute Section 14.155, subdivision 2, the impact on small business has been considered in the promulgation of the rules. The rules will affect small businesses in respect to the accident and health insurance they provide their employees, members or subscribers. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in greater detail in the Statement of Need and Reasonableness.

All interested or affected persons will have an opportunity to participate by presenting oral and/or written evidence at the hearing. Questioning of agency representatives or witnesses, and of interested persons making oral statements will be allowed in order

to explain the purpose or intended operation of the proposed rules, or a suggested modification, or for other purposes material to the evaluation or formulation of the proposed rules. As a result of the hearing process, the proposed rule may be modified.

Written material may be submitted to the Administrative Law Judge and recorded in the hearing record for five working days after the public hearing ends. The comment period may be extended for a longer period not to extend 20 calendar days if ordered by the Administrative Law Judge at the hearing. Comments received during the comment period will be available for review at the Office of Administrative Hearings. Following the five to twenty day comment period, there will be a three day period in which the Commissioner and interested persons may respond in writing to any new information submitted. During the three day period, the agency may indicate in writing whether there are any amendments suggested by other persons which the agency is willing to adopt. Additional evidence may not be submitted during the three day period. The written responses will be added to the record of the proceeding.

Notice: Any person may request notification of the date on which the Administrative Law Judge's report will be available after which date the Department of Commerce 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 the State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Department of Commerce at any time prior to the filing of the rules with the Secretary of State.

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

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

December 22, 1985

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed (all new material)

2742.0100 PURPOSE AND SCOPE.

Subpart 1. **Generally.** Parts 2742.0100 to 2742.0400 are intended to establish uniformity in the permissive use of overinsurance provisions and to avoid claim delays and misunderstandings that could otherwise result from the use of inconsistent or incompatible provisions among plans.

Subp. 2. **Description.** A coordination of benefits provision is one that is intended to avoid claims payment delays and duplication of benefits when a person is covered by two or more plans providing benefits or services for medical, dental, or other care or treatment. It avoids claims payment delays by establishing an order in which plans pay claims and providing authority for the orderly transfer of information needed to pay claims promptly. It avoids duplication of benefits by permitting a reduction of the benefits of a plan when, by the rules established by parts 2742.0100 to 2742.0400, it does not have to pay its benefits first.

Subp. 3. **Rules permissive.** Parts 2742.0100 to 2742.0400 permit, but do not require, plans to include coordination of benefits provisions.

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

PROPOSED RULES

Subp. 4. **Effect.** If a group contract includes a coordination of benefits provision, it must be consistent with parts 2742.0100 to 2742.0400. A plan that does not include such a provision may not take the benefits of another plan as defined in part 2742.0200 into account when it determines its benefits. There is one exception: a contract holder's coverage that is designed to supplement a part of a basic package of benefits may provide that the supplementary coverage shall be excess to any other parts of the plan provided by the contract holder.

2742.0200 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 2742.0100 to 2742.0400, the terms in this part have the meanings given them.

Subp. 2. **Plan.** "Plan" is a form of coverage with which coordination is allowed. The definition of plan in the group contract must state the types of coverage which will be considered in applying the coordination of benefits provision of that contract. The right to include a type of coverage is limited by the rest of this subpart.

The definition in part 2742.0300 is an example of what may be used. Any definition that satisfies this subpart may be used.

Parts 2742.0100 to 2742.0400 use the term "plan." However, a group contract may, instead, use "program" or some other term.

The term "plan" does not include:

- A. individual or family insurance contracts;
- B. subscriber contracts;
- C. coverage through health maintenance organizations; or
- D. coverage under other prepayment, group practice, and individual practice plans; except as otherwise provided in this part.

"Plan" includes: group insurance and group subscriber contracts; uninsured arrangements of group or group-type coverage; group or group-type coverage through health maintenance organizations and other prepayment, group practice, and individual practice plans; and group-type contracts.

Group-type contracts are contracts which are not available to the general public and can be obtained and maintained only because of membership in or connection with a particular organization or group. Group-type contracts answering this description may be included in the definition of plan, at the option of the insurer or the service provider and its contract-client, whether or not uninsured arrangements or individual contract forms are used and regardless of how the group-type coverage is designated (for example, "franchise" or "blanket"). The use of payroll deductions by the employee, subscriber, or member to pay for the coverage is not sufficient, of itself, to make an individual contract part of a group-type plan. This description of group-type contracts is not intended to include individually underwritten and issued, guaranteed renewable policies that may be purchased through payroll deduction at a premium savings to the insured.

"Plan" may include the medical benefits coverage in group, group-type, and individual automobile "no-fault" and traditional automobile "fault" type contracts.

"Plan" may include Medicare or other governmental benefits. That part of the definition of "plan" may be limited to the hospital, medical, and surgical benefits of the governmental program. However, "plan" shall not include a state plan under Medicaid, and shall not include a law or plan when, by law, its benefits are excess to those of any private insurance plan or other nongovernmental plan.

The term "plan" shall not be construed to include group or group-type hospital indemnity benefits of \$100 per day or less, but may be construed to include the amount by which group or group-type hospital indemnity benefits exceed \$100 per day.

"Plan" shall not include school accident-type coverages. These cover grammar, high school, and college students for accidents only, including athletic injuries, either on a 24-hour basis or on a "to and from school" basis.

Subp. 3. **Hospital indemnity benefits.** "Hospital indemnity benefits" are those not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

Subp. 4. **This plan.** In a coordination of benefits provision, this term refers to the part of the group contract providing the health care benefits to which the coordination of benefits provision applies and which may be reduced on account of the benefits of other plans. Any other part of the group contract providing health care benefits is separate from "this plan."

A group contract may apply one coordination of benefits provision to certain of its benefits (such as dental benefits), coordinating only with like benefits, and may apply other separate coordination of benefits provisions to coordinate other benefits.

Subp. 5. **Primary plan.** A primary plan is one whose benefits for a person's health care coverage must be determined without taking the existence of any other plan into consideration. A plan is a primary plan if either item A or B is true.

A. The plan either has no order of benefit determination rules, or it has rules which differ from those permitted by parts 2742.0100 to 2742.0400.

B. All plans which cover the person use the order of benefit determination rules required by parts 2742.0100 to 2742.0400 and under those rules the plan determines its benefits first.

There may be more than one primary plan (for example, two plans which have no order of benefit determination rules).

Subp. 6. **Secondary plan.** A secondary plan is one which is not a primary plan. If a person is covered by more than one secondary plan, the order of benefit determination rules of parts 2742.0100 to 2742.0400 decide the order in which their benefits are determined in relation to each other. The benefits of each secondary plan may take into consideration the benefits of the primary plan or plans and the benefits of any other plan which, under parts 2742.0100 to 2742.0400, has its benefits determined before those of that secondary plan.

Subp. 7. **Allowable expense.** "Allowable expense" is the necessary, reasonable, and customary item of expense for health care, when the item of expense is covered at least in part under any of the plans involved, except where a statute requires a different definition. However, items of expense under coverages such as dental care, vision care, prescription drugs, or hearing aid programs may be excluded from the definition of allowable expense. A plan which provides benefits only for any items of expense may limit its definition of allowable expenses to like items of expense.

When a plan provides benefits in the form of services, the reasonable cash value of each service will be considered as both an allowable expense and a benefit paid.

The difference between the cost of a private hospital room and the cost of a semi-private hospital room is not considered an allowable expense unless the patient's stay in a private hospital room is medically necessary in terms of generally accepted medical practice.

When coordination of benefits is restricted in its use to a specific coverage in a contract (for example, major medical or dental), the definition of allowable expense must include the corresponding expenses or services to which coordination of benefits applies.

Subp. 8. **Claim.** "Claim" means a request that benefits of a plan be provided or paid. The benefits claimed may be in the form of services, (including supplies); payment for all or a portion of the expenses incurred; a combination of services and payment for expenses incurred; or an indemnification.

Subp. 9. **Claim determination period.** "Claim determination period" means a period of time, which must not be less than 12 consecutive months, over which allowable expenses are compared with total benefits payable in the absence of coordination of benefits, to determine whether overinsurance exists; and how much each plan will pay or provide.

A claim determination period usually is a calendar year, but a plan may use some other period of time that fits the coverage of the group contract. A person may be covered by a plan during a portion of a claim determination period if that person's coverage starts or ends during that claim determination period.

As each claim is submitted, each plan is to determine its liability and pay or provide benefits based upon allowable expenses incurred to that point in the claim determination period. A determination is subject to adjustment as later allowable expenses are incurred in the same claim determination period.

2742.0300 MODEL COORDINATION OF BENEFITS CONTRACT PROVISION.

Subpart 1. **General.** Subpart 4 contains a model coordination of benefits provision for use in group contracts. That use is subject to parts 2742.0200, subpart 2, items B and C and 2742.0400.

Subp. 2. **Flexibility.** A group contract's coordination of benefits provision does not have to use the words and format shown in parts 2742.0100 to 2742.0400. Changes may be made to fit the language and style of the rest of the group contract or to reflect the differences among plans which provide services, which pay benefits for expenses incurred, and which indemnify.

Substantive changes are allowed only as set forth in parts 2742.0100 to 2742.0400.

Subp. 3. **Prohibited coordination and benefit design.** A group contract may not reduce benefits on the basis that another plan exists; except with respect to Part B of Medicare, that a person is or could have been covered under another plan; or a person has elected an option under another plan providing a lower level of benefits than another option which could have been elected.

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No contract may contain a provision that its benefits are "excess" or "always secondary" to any plan defined in part 2742.0200, subpart 2, except in accord with the rules permitted by parts 2742.0100 to 2742.0400.

Subp. 4. Text of model coordination of benefits provision.

COORDINATION OF THE GROUP CONTRACT'S BENEFITS WITH OTHER BENEFITS

(I) APPLICABILITY.

(A) This coordination of benefits provision applies to this plan when an employee or the employee's covered dependent has health care coverage under more than one plan. "Plan" and "this plan" are defined below.

(B) If this coordination of benefits provision applies, the order of benefit determination rules should be looked at first. Those rules determine whether the benefits of this plan are determined before or after those of another plan. The benefits of this plan:

(i) shall not be reduced when, under the order of benefit determination rules, this plan determines its benefits before another plan; but

(ii) may be reduced when, under the order of benefit determination rules, another plan determines its benefits first. The above reduction is described in section (IV) Effect on the Benefits of This Plan.

(II) DEFINITIONS.

(A) A "plan" is any of these which provides benefits or services for, or because of, medical or dental care or treatment:

(i) Group insurance or group-type coverage, whether insured or uninsured. This includes prepayment, group practice, or individual practice coverage. It also includes coverage other than school accident-type coverage.

(ii) Coverage under a governmental plan or required or provided by law. This does not include a state plan under Medicaid (Title XIX, Grants to States for Medical Assistance Programs, of the United States Social Security Act as amended from time to time). It also does not include any plan when, by law, its benefits are excess to those of any private insurance program or other nongovernmental program.

Each contract or other arrangement for coverage under (i) or (ii) is a separate plan. Also, if an arrangement has two parts and coordination of benefits rules apply only to one of the two, each of the parts is a separate plan.

(B) "This plan" is the part of the group contract that provides benefits for health care expenses.

(C) "Primary plan/secondary plan." The order of benefit determination rules state whether this plan is a primary plan or secondary plan as to another plan covering the person.

When this plan is a primary plan, its benefits are determined before those of the other plan and without considering the other plan's benefits.

When this plan is a secondary plan, its benefits are determined after those of the other plan and may be reduced because of the other plan's benefits.

When there are more than two plans covering the person, this plan may be a primary plan as to one or more other plans, and may be a secondary plan as to a different plan or plans.

(D) "Allowable expense" means a necessary, reasonable, and customary item of expense for health care, when the item of expense is covered at least in part by one or more plans covering the person for whom the claim is made.

The difference between the cost of a private hospital room and the cost of a semi-private hospital room is not considered an allowable expense under the above definition unless the patient's stay in a private hospital room is medically necessary either in terms of generally accepted medical practice, or as specifically defined in the plan.

When a plan provides benefits in the form of services, the reasonable cash value of each service rendered will be considered both an allowable expense and a benefit paid.

(E) "Claim determination period" means a calendar year. However, it does not include any part of a year during which a person has no coverage under this plan, or any part of a year before the date this coordination of benefits provision or a similar provision takes effect.

(III) ORDER OF BENEFIT DETERMINATION RULES.

(A) General. When there is a basis for a claim under this plan and another plan, this plan is a secondary plan which has its benefits determined after those of the other plan, unless:

(i) the other plan has rules coordinating its benefits with those of this plan; and

(ii) both those rules and this plan's rules, in subparagraph (B) below, require that this plan's benefits be determined before those of the other plan.

(B) Rules. This plan determines its order of benefits using the first of the following rules which applies:

(i) Nondependent/dependent. The benefits of the plan which covers the person as an employee, member, or subscriber (that is, other than as a dependent) are determined before those of the plan which covers the person as a dependent.

(ii) Dependent child/parents not separated or divorced. Except as stated in subparagraph (B)(iii) below, when this plan and another plan cover the same child as a dependent of different persons, called "parents":

a. the benefits of the plan of the parent whose birthday falls earlier in a year are determined before those of the plan of the parent whose birthday falls later in that year; but

b. if both parents have the same birthday, the benefits of the plan which covered the parent longer are determined before those of the plan which covered the other parent for a shorter period of time.

However, if the other plan does not have the rule described in a. above, but instead has a rule based upon the gender of the parent, and if, as a result, the plans do not agree on the order of benefits, the rule in the other plan will determine the order of benefits.

(iii) Dependent child/separated or divorced parents. If two or more plans cover a person as a dependent child of divorced or separated parents, benefits for the child are determined in this order:

a. first, the plan of the parent with custody of the child;

b. then, the plan of the spouse of the parent with custody of the child; and

c. finally, the plan of the parent not having custody of the child.

However, if the specific terms of a court decree state that one of the parents is responsible for the health care expenses of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has actual knowledge of those terms, the benefits of pply with respect to any claim determination period or plan year during which any benefits are actually paid or provided before the entity has that actual knowledge.

(iv) Active/inactive employee. The benefits of a plan which covers a person as an employee who is neither laid off nor retired (or as that employee's dependent) are determined before those of a plan which covers that person as a laid off or retired employee (or as that employee's dependent). If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, (iv) is ignored.

(v) Longer/shorter length of coverage. If none of the above rules determines the order of benefits, the benefits of the plan which covered an employee, member, or subscriber longer are determined before those of the plan which covered that person for the shorter time.

(IV) EFFECT ON THE BENEFITS OF THIS PLAN.

(A) When this section applies. This section applies when, in accordance with section (III) Order of Benefit Determination Rules, this plan is a secondary plan as to one or more other plans. In that event the benefits of this plan may be reduced under this section. Such other plan or plans are referred to as "the other plans" in (B) below.

(B) Reduction in this plan's benefits. The benefits of this plan will be reduced when the sum of:

(i) the benefits that would be payable for the allowable expenses under this plan in the absence of this coordination of benefits provision; and

(ii) the benefits that would be payable for the allowable expenses under the other plans, in the absence of provisions with a purpose like that of this coordination of benefits provision, whether or not claim is made; exceeds those allowable expenses in a claim determination period. In that case, the benefits of this plan will be reduced so that they and the benefits payable under the other plans do not total more than those allowable expenses.

When the benefits of this plan are reduced as described above, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of this plan.

(V) RIGHT TO RECEIVE AND RELEASE NEEDED INFORMATION.

Certain facts are needed to apply these coordination of benefits rules. [The XYZ Company] has the right to decide which facts it needs. It may get needed facts from or give them to any other organization or person. [The XYZ Company] need not tell, or get the

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consent of, any person to do this. Each person claiming benefits under this plan must give [The XYZ Company] any facts it needs to pay the claim.

(VI) FACILITY OF PAYMENT.

A payment made under another plan may include an amount which should have been paid under this plan. If it does, [The XYZ Company] may pay that amount to the organization which made that payment. That amount will then be treated as though it were a benefit paid under this plan. [The XYZ Company] will not have to pay that amount again. The term "payment made" includes providing benefits in the form of services, in which case "payment made" means reasonable cash value of the benefits provided in the form of services.

(VII) RIGHT OF RECOVERY.

If the amount of the payments made by [The XYZ Company] is more than it should have paid under this coordination of benefits provision, it may recover the excess from one or more of:

- (A) the persons it has paid or for whom it has paid;
- (B) insurance companies; or
- (C) other organizations.

The "amount of the payments made" includes the reasonable cash value of any benefits provided in the form of services.

2742.0400 RULES FOR COORDINATION OF BENEFITS.

Subpart 1. **General.** The primary plan must pay or provide its benefits as if the secondary plan or plans did not exist.

A secondary plan may take the benefits of another plan into account only when, under this part, it is secondary to that other plan.

Subp. 2. **Dependent child/parents not separated or divorced.** The word "birthday" in the wording shown in subsection (4)(d)(III)(B)(ii) of part 2742.0300, subpart 4 refers only to month and day in a calendar year, not the year in which the person was born.

A group contract which includes coordination of benefits and which is issued or renewed, or which has an anniversary date on or after the later of [January 1, 1986] or [60] days after the effective date of parts 2742.0100 to 2742.0400 shall include the substance of the provision in subsection (4)(d)(III)(B)(ii) of part 2742.0300, subpart 4. That provision shall become effective on the later of January 1, 1987, or one year and 60 days after the effective date of parts 2742.0100 to 2742.0400. Until that provision becomes effective, the group contract shall, instead, use wording like this:

(ii) ... Except as stated in (iii), the benefits of a plan which covers a person as a dependent of a male are determined before those of a plan which covers the person as a dependent of a female."

Subp. 3. **Longer/shorter length of coverage.** To determine the length of time a person has been covered under a plan, two plans shall be treated as one if the claimant was eligible under the second within 24 hours after the first ended. Thus, the start of a new plan does not include a change in the amount or scope of a plan's benefits; a change in the entity which pays, provides, or administers the plan's benefits; or a change from one type of plan to another (such as, from a single employer plan to that of a multiple employer plan).

The claimant's length of time covered under a plan is measured from the claimant's first date of coverage under that plan. If that date is not readily available, the date the claimant first became a member of the group shall be used as the date from which to determine the length of time the claimant's coverage under the present plan has been in force.

Subp. 4. **Reduction in plan's benefits when it is secondary.** A secondary plan may reduce its benefits by using the alternatives in items A to C, or any version thereof which is more favorable to a covered person. This is subject to the conditions and limits described in this subpart.

A. Alternative 1, total allowable expenses. When this alternative is used, a secondary plan may reduce its benefits so that the total benefits paid or provided by all plans during a claim determination period are not more than total allowable expenses. The amount by which the secondary plan's benefits have been reduced shall be used by the secondary plan to pay allowable expenses, not otherwise paid, which were incurred during the claim determination period by the person for whom the claim is made. As each claim is submitted, the secondary plan determines its obligation to pay for allowable expenses based on all claims which were submitted up to that point in time during the claim determination period.

When this alternative is used, the suggested contract provision is as shown in part 2742.0300, subpart 4, (IV)(B).

The last paragraph quoted in part 2742.0300, subpart 4, (IV)(B) may be omitted if the plan provides only one benefit, or may be altered to suit the coverage provided.

B. Alternative 2, total allowable expenses with coinsurance. When this alternative is used, a secondary plan may reduce its benefits so that the total benefits paid or provided by all plans during a claim determination period are not more than a stated

percentage, but not less than 80 percent, of total allowable expenses. The amount by which the secondary plan's benefits have been reduced shall be used by the secondary plan to pay the stated percentage of allowable expenses, not otherwise paid, which were incurred during the claim determination period by the person for whom the claim is made. As each claim is submitted, the secondary plan determines its obligation to pay for the stated percentage of allowable expenses based on all claims which were submitted up to that point in time during the claim determination period.

When this alternative is used, the suggested contract provision for use in part 2742.0300, subpart 4, (IV)(B) is as follows:

The benefits of this plan will be reduced when the sum of: (a) the benefits that would be payable for the allowable expenses under this plan in the absence of this coordination of benefits provision; and (b) the benefits that would be payable for the allowable expenses under the other plans in the absence of provisions with a purpose like that of this coordination of benefits provision, whether or not claim is made; exceeds the greater of (i) 80 percent of those allowable expenses or (ii) the amount of the benefits in (a). In that case, the benefits of this plan will be reduced so that they and the benefits in (b) do not total more than the greater of (i) and (ii).

When the benefits of this plan are reduced as described above, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of this plan.

The paragraph immediately above may be omitted if the plan provides only one benefit, or may be altered to suit the coverage provided.

C. Alternative 3, maintenance of benefits. When this alternative is used, a secondary plan may reduce its benefits by the amount of the benefits payable under the other plans for the same expenses.

When this alternative is used, the suggested contract provision for use in part 2742.0300, subpart 4, (IV)(B) is shown below.

The benefits that would be payable under this plan in the absence of this coordination of benefits provision will be reduced by the benefits payable under the other plans for the expenses covered in whole or in part under this plan. This applies whether or not claim is made under a plan.

When a plan provides benefits in the form of services, the reasonable cash value of each service rendered will be considered both an expense incurred and a benefit payable.

When the benefits of this plan are reduced as described above, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of this plan.

The paragraph immediately above may be omitted if the plan provides only one benefit, or may be altered to suit the coverage provided.

This alternative may be used in a plan only when, in the absence of coordination of benefits, the benefits of the plan (excluding benefits for dental care, vision care, prescription drugs, or hearing aid programs) will, after any deductible, be not less than 50 percent of covered expenses for the treatment of mental or nervous disorders or alcoholism or drug abuse, or under cost containment provisions with alternative benefits, such as those applicable to second surgical opinions, precertification of hospital stays, etc.; and not less than 75 percent of other covered expenses.

A plan using this alternative may exclude definitions of and references to allowable expenses, claim determination period, or both.

Subp. 5. **Conditions for use of alternatives 2 and 3.** Alternatives 2 and 3 in subpart 4 permit a secondary plan to reduce its benefits so that total benefits may be less than 100 percent of allowable expenses.

A plan using alternatives 2 and 3 in subpart 4 must comply with the following conditions:

A. The plan must provide prior notice to employees or members that when it is secondary (that is, it determines benefits after another plan) its benefits plus those of the primary plan will be less than 100 percent of allowable expenses; unless the primary plan, by itself, provides benefits at 100 percent of allowable expenses.

B. When the plan is secondary, it must provide a limit on the amount the employee, member, or subscriber is required to pay toward the expenses or services covered under the plan and for which the plan is secondary. The limit shall not exceed \$2,000 for any covered person, or \$3,000 for any family in any claim determination period.

C. The plan must permit a person to be enrolled for its health care coverage when that person's eligibility for health care coverage under another plan ends for any reason the person is eligible for coverage under the plan, and the enrollment is made before

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the end of the 31-day period immediately following either the date when health care coverage under the other plan ends; or the end of any continuation period elected by or for that person.

This unrestricted enrollment is not required if a person remains eligible for coverage under that other plan, or a plan which replaces it, without interruption of that person's coverage.

D. If the person is enrolled before the end of the 31-day period, there shall be no interruption of coverage. Thus, the requirements concerning active work of employees, members, or subscribers, or nonconfinement of dependents on the effective date of coverage, shall not be applied. However, coverage for the person under the plan may be subject to the same requirements including underwriting requirements, benefit restrictions, waiting periods, and pre-existing condition limitations that would have applied had the person been enrolled under the plan on the later of (a) the date the person first became eligible for the plan's coverage; or (b) the date the employee, member, or subscriber last became covered under the plan.

Credit shall be given under any pre-existing condition limitation or waiting period from the later of the dates described in subunits (a) or (b) to the date the person actually enrolled pursuant to the unrestricted enrollment provisions above.

E. A secondary plan which provides benefits in the form of services may recover the reasonable cash value of providing the services from the primary plan, to the extent that benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan. Nothing in this provision shall be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan which provides benefits in the form of services.

Subp. 6. **Excess and other nonconforming provisions.** Some plans have order of benefit determination rules not consistent with parts 2742.0100 to 2742.0400 which declare that the plan's coverage is "excess" to all others, or "always secondary." This occurs because certain plans may not be subject to insurance regulation; or some group contracts have not yet been conformed with parts 2742.0100 to 2742.0400 pursuant to the effective date provisions of these rules.

A plan with order of benefit determination rules which comply with parts 2742.0100 to 2742.0400 (herein called a complying plan) may coordinate its benefits with a plan which is "excess" or "always secondary" or which uses order of benefit determination rules which are inconsistent with those contained in parts 2742.0100 to 2742.0400 (herein called a noncomplying plan) on the following basis:

A. If the complying plan is the primary plan, it shall pay or provide its benefits on a primary basis.

B. If the complying plan is the secondary plan, it shall, nevertheless, pay or provide its benefits first, but the amount of the benefits payable shall be determined as if the complying plan were the secondary plan. In such a situation, payment shall be the limit of the complying plan's liability.

C. If the noncomplying plan does not provide the information needed by the complying plan to determine its benefits within a reasonable time after it is requested to do so, the complying plan shall assume that the benefits of the noncomplying plan are identical to its own, and shall pay its benefits accordingly. However, the complying plan must adjust any payments it makes based on such assumption whenever information becomes available as to the actual benefits of the noncomplying plan.

D. If the noncomplying plan reduces its benefits so that the employee, subscriber, or member receives less in benefits than he or she would have received had the complying plan paid or provided its benefits as the secondary plan and the noncomplying plan paid or provided its benefits as the primary plan; and governing state law allows the right of subrogation in subpart 8; then the complying plan shall advance to or on behalf of the employee, subscriber, or member an amount equal to the difference. However, in no event shall the complying plan advance more than the complying plan would have paid had it been the primary plan less any amount it previously paid. In consideration of such advance, the complying plan shall be subrogated to all rights of the employee, subscriber, or member against the noncomplying plan. An advance by the complying plan shall also be without prejudice to any claim it may have against the noncomplying plan in the absence of subrogation.

Subp. 7. **Allowable expense.** A term such as "usual and customary," "usual and prevailing," or "reasonable and customary" may be substituted for the term "necessary, reasonable, and customary." Terms such as "medical care" or "dental care" may be substituted for "health care" to describe the coverages to which the coordination of benefits provisions apply.

Subp. 8. **Subrogation.** The coordination of benefits concept clearly differs from that of subrogation. Provisions for one may be included in health care benefits contracts without compelling the inclusion or exclusion of the other.

EFFECTIVE DATE. Parts 2742.0100 to 2742.0400 are effective 60 days after the publication of their notice of adoption in the *State Register*.

Parts 2742.0100 to 2742.0400 apply to every group contract which provides health care benefits and is issued on or after that date.

A group contract which provides health care benefits and was issued before that date shall be brought into compliance with parts 2742.0100 to 2742.0400 by the later of the next anniversary date or renewal date of the group contract; or the expiration of any applicable collectively bargained contract pursuant to which it was written.

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.

Pollution Control Agency

Adopted Rules Relating to Environment; General Permit Fee Rule

The rules proposed and published at *State Register*, Volume 10, Number 8, pages 456-459, August 19, 1985 (10 S.R. 456) are adopted with the following modifications:

Rules as Adopted

AIR QUALITY PERMIT FEES

7002.0010 SCOPE.

~~Chapter 7002 applies~~ Parts 7002.0010 to 7002.0100 apply to all persons required to obtain a permit from the Minnesota Pollution Control Agency as described in part 7001.0020 (permanent rules, scope), items ~~C, E, F, H, I,~~ and J.

7002.0020 DEFINITIONS.

Subp. 7. ~~National Pollutant Discharge Elimination System (NPDES)~~, "National Pollutant Discharge Elimination System (NPDES)" has the meaning given it in ~~part 7001.1020~~ (permanent rules, NPDES permits), subpart 19.

~~Subp. 8.~~ 8. Nonattainment area. "Nonattainment area" means a geographical region that has been designated by the Minnesota Pollution Control Agency as violating a state or national ambient air quality standard.

~~Subp. 9.~~ 9. State disposal system permit. "State disposal system permit" means a permit for a disposal system that may be constructed and operated without a NPDES permit.

~~Subp. 10.~~ 8. Total emission facility. "Total emission facility" means an assemblage of all emission sources on adjacent property that are under common ownership or control and that exist for a common function.

7002.0030 FEE DETERMINATION.

The agency shall calculate processing and annual fees based upon the schedule in part 7002.0100 ~~or 7002.0110~~ and shall notify the permittee of the amount due prior to each payment date.

7002.0040 PAYMENT OF FEES.

A person submitting a fee shall make the fee payable to the "~~State Treasurer~~ Minnesota Pollution Control Agency" and submit it to the Director, Division of Air Quality; ~~or Director, Division of Water Quality,~~ as appropriate for the type of permitted activity.

7002.0060 PROCESSING FEE.

A permittee shall pay the applicable processing fee within 30 days of issuance of the permit by the agency.

If a facility is a "small business" as defined in Minnesota Statutes, section 14.115, subdivision 1, ~~or a municipal wastewater treatment plant with an average design flow of less than 30,000 gallons per day,~~ the permittee may request to pay the processing fee in annual installments. Annual installments are determined by dividing the processing fee into equal annual payments based on the term of the permit. The first payment shall be made within 30 days of issuance of the permit and annually thereafter on the anniversary of issuance. A facility that qualifies as a "small business" must provide proof of that status upon application for a permit.

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

7002.0070 ANNUAL FEE.

All persons required to obtain a permit shall pay an annual fee for enforcement of applicable statutes and rules except as provided in ~~parts part~~ 7002.0100 and 7002.0110. The annual fee shall be paid within 30 days of receipt of an invoice from the agency.

7002.0080 NOTIFICATION OF ERROR.

A person who thinks that a basic processing fee, additional processing fee, or annual fee for a specific facility is in error shall provide written notice of the error to the director of the Division of Air Quality or ~~the director of the Division of Water Quality, as appropriate,~~ along with the assessed fee. If the director of the Division of Air Quality or ~~the Division of Water Quality~~ finds, upon reviewing the data, that the assessed fee was in error, the overpayment shall be refunded to the permittee or credited to the permittee's account.

7002.0110 WATER QUALITY PERMIT FEE SCHEDULE.

~~Subpart 1. Major NPDES facility; definition.~~ "Major NPDES facility" means a wastewater treatment discharger designated by the director and the regional administrator of the United States Environmental Protection Agency as part of the annual work plan that is developed in accordance with and that is subject to the public participation requirements of Code of Federal Regulations, title 40, part 35, and subject to review and approval of the agency. The agency and the United States Environmental Protection Agency shall designate the following types of facilities as major NPDES facilities unless the agency and the United States Environmental Protection Agency find that the facility does not have a potential for significantly impacting water quality:

- ~~A. a publicly owned treatment facility with an average design flow of 1,000,000 gallons per day or more;~~
- ~~B. an electrical generating facility that is not primarily standby or a peaking facility with a generation capacity of 100 megawatts or greater;~~
- ~~C. a facility that is a primary industry as defined in Code of Federal Regulations, title 40, section 122.2, or other industry that discharges quantities of process wastewater, which are significant due to the volume, pollutant loading, or other discharge parameters or the character of the receiving water; or~~
- ~~D. a facility with an actual or potential discharge of toxic pollutants under section 307(a)(1) of the Clean Water Act, United States Code, title 33, section 1317.~~

~~Subp. 2. Application fees.~~ A person making application for a permit covered under part 7001.0020 (permit rules, scope), items C, E, F, and H, shall pay the following applicable application fee:

- ~~A. \$50 for a major NPDES facility permit;~~
- ~~B. \$50 for a state disposal system permit or a NPDES facility permit other than a major NPDES facility permit;~~
- ~~C. \$250 for a liquid storage permit; or~~
- ~~D. \$70 for a sewer extension permit.~~

~~Subp. 3. Processing fees.~~ The permittee shall pay the following processing fees for the applicable permit activity:

- ~~A. \$6,800 for a major NPDES facility permit;~~
- ~~B. \$900 for a NPDES facility permit other than a major NPDES facility permit; or~~
- ~~C. \$900 for a state disposal system permit except a sewer extension permit.~~

~~The agency shall not charge processing fees for liquid storage or sewer extension permits.~~

~~Subp. 4. Annual fees.~~ All persons required to obtain a NPDES facility permit or a state disposal system permit shall pay the following applicable annual fees:

- ~~A. \$2,600 for a major NPDES facility permit;~~
- ~~B. \$120 for a NPDES facility permit other than a major NPDES facility permit; or~~
- ~~C. \$120 for a state disposal system permit, except a sewer extension permit.~~

~~Subp. 5. General permits.~~ The agency shall not charge processing or enforcement fees for a permit issued as a general permit under part 7001.0210 (permit rules).

EFFECTIVE DATE. Parts 7002.0010 to ~~7002.0110~~ 7002.0100 are effective January 1, 1986.

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.

Aitkin County

Notice of Filing Fees for County Law Library

Effective January 1, 1986, a \$5 law library fee will be assessed on all criminal convictions including misdemeanors, gross misdemeanors, and felonies, pursuant to Minnesota Statutes 140.422 subdivision 3. The sentencing judge may waive the library fee at his discretion. This is in addition to current county law library filing fees on civil actions.

Environmental Quality Board

Outside Opinion Sought Regarding Proposed Rules Governing Environmental Review

Notice is hereby given that the Environmental Quality Board (Board) is seeking information or opinions from sources outside the agency in preparing to propose the adoption, amendment, suspension, or repeal of the rules governing environmental review. The adoption of the rules is authorized by Minnesota Statutes, sections 116D.04 and 116D.045, which require the Board to promulgate rules governing mandatory categories for environmental assessment worksheets and environmental impact statements, environmental review procedures, alternative forms of environmental review and environmental impact statement cost assessments.

The existing rules are published at Minnesota Rules pts. 4410.0200-4410.7800. The Environmental Quality Board is considering amending sections of the existing environmental review rules, in accordance with its responsibility to monitor the rules and to take appropriate measures to improve their effectiveness under Minnesota Rules pt. 4410.0400 subp. 1.

The Board has determined that at least the following topics will be considered for amendment: (1) mandatory thresholds for environmental assessment worksheets and environmental impact statements; (2) the selection process for the responsible governmental unit in cases where the project fits two or more mandatory categories; (3) the generic environmental impact statement process; (4) the substitute review processes; and (5) the environmental impact statement cost assessment formula and procedures.

The Environmental Quality Board requests information and comments concerning the subject matter of the rules. Interested or affected persons or groups may submit data or views on the subject matter of concern orally or in writing. Written statements should be addressed to:

Gregg Downing
Environmental Review Program
Minnesota Environmental Quality Board
110 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-8253 and in person at the above address.

All statements of information and comment shall be accepted until February 21, 1986. Any written material received by the Environmental Quality Board shall become part of the rulemaking record in the event that the rules are adopted.

John C. Ditmore
Chairman

Department of Finance

Maximum Interest Rate for Municipal Obligations, January, 1986

Pursuant to Minnesota Statutes, Section 475.55, Subdivision 4, Commissioner of Finance, Jay Kiedrowski, announced today that the maximum interest rate for municipal obligations in the month of January will be ten (10) percent per annum. Obligations which

OFFICIAL NOTICES

are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to eleven (11) percent per annum.

For further information, contact:

Peter Sausen, Assistant Commissioner
Cash and Debt Management
State of Minnesota
Department of Finance
(612) 296-8372

Department of Health

Outside Opinion Sought Regarding Rules Governing the Practice of Mortuary Science

Notice is hereby given that the Department of Health is seeking information or opinions from sources outside the agency in preparing to amend existing rules and adopt new rules relating to the licensing and regulation of morticians and funeral directors and to the disposition of the dead. Promulgation of the rules is authorized by Minnesota Statutes, sections 144.12(3), 144.122, and 149.05, subdivisions 2 and 4.

Outside opinion is also being solicited as to how any new or amended rules would affect small businesses as defined by Minnesota Statutes, section 14.115, subdivision 1.

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

David F. Schwietz
Supervisor
Mortuary Science Unit
Minnesota Department of Health Building
Room 353
717 Delaware Street Southeast
Minneapolis, Minnesota 55414

Oral statements will be received during regular business hours over the telephone at (612) 623-5513 and in person at the above address.

All statements of information and comment shall be accepted until March 1, 1986. Any written material received by the Department of Health by that date shall become part of the record in the event the rules are promulgated.

January 6, 1986

David F. Schwietz

Department of Labor and Industry

Correction to Prevailing Wage Rates

The highway/heavy prevailing wage rates effective October 1, 1985 in Faribault County for the following classes of labor were certified in error: Flagperson (104), Bituminous spreader and finishing operator (204), Front end loader operator (214) and Roller operator, over 6 tons for bituminous finishing and/or wearing courses (228). Also certified in error was Bituminous spreader and bituminous finishing machine operator-helper (205) in Freeborn County.

The correct rates, effective January 31, 1986, 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 an Amendment to the Water Resources Management Development Guide Policy Plan Part 1

The Metropolitan Council will hold a public hearing Tuesday, February 11, 1986 at 4:00 p.m. at the Metropolitan Council, 300 Metro Square Bldg., 7th and Robert Sts., St. Paul, Minnesota on proposed amendments to the Water Resources Management Policy Plan Part 1. The amendments are being proposed to allow the Metropolitan Waste Control Commission to proceed with needed system improvement projects and studies. All interested persons are encouraged to attend the hearing and offer comments. People may register to speak in advance by calling Jack Frost of the Council's Environmental Planning Staff at 291-6519. Questions on the proposed revision should also be directed to him. Copies of the draft plan are available free of charge from the Council's Communication Department at 291-6464. Copies are also available for public inspection beginning January 10 at the following locations:

Metropolitan Council Library
300 Metro Square Bldg.
St. Paul, Mn. 55101

Minneapolis Public Library
Government Documents Room
300 Nicollet Mall
Minneapolis, Mn. 55401

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

Anoka County Library—Blaine Branch
707 Highway 10
Blaine, Mn. 55434

Carver County Library—Chaska Branch
314 Walnut Street
Chaska, Mn. 55318

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

Hennepin County Library—Southdale Branch
7001 York Avenue
Edina, Mn. 55435

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

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

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

Sandra S. Gardebring, Chair
Metropolitan Council

Department of Public Safety Driver and Vehicle Services Division

Informal Public Hearing Notice for Proposed Rules Governing Alcohol Problem Assessments—Rules and Standards for Reimbursements to Counties

Notice of Informal Department Hearing

Notice is hereby given that an informal public hearing will be held regarding the above entitled matter in Room 400, State Office Building, 435 Park, St. Paul, Minnesota, on Wednesday, January 22, 1986, commencing at 9:00 a.m. The hearing will be conducted by Commissioner Paul J. Tschida of the Department of Public Safety. The above entitled rules are exempt from the rule-making procedures established in Chapter 14 of the Minnesota Statutes. The Department of Public Safety wants to receive input from interested persons and give them the opportunity to be heard concerning the adoption of rules. Interested persons may submit either oral or written data, statements or arguments to the Commissioner at the hearing.

The department's authority to adopt the proposed rules is contained in Minn. Stat. 169.124, subd. 2. The proposed rules relate to standards and qualifications for counties to be eligible for reimbursement for alcohol problem assessments for presentence investigation purposes. The current rules were repealed by the state legislature in the 1985 special session, Chapter 4. Consequently, the department must promulgate new rules.

OFFICIAL NOTICES

Office of the Secretary of State

Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multimember state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is February 4, 1986.

HUMAN SERVICES OCCUPATIONS ADVISORY COUNCIL has 1 vacancy open for a representative of a licensed health care facility which can include a health maintenance organization as defined in M.S. § 62D.02. The council shall assist the Commissioner of Health in formulating policies and rules regarding the credentialing of human services occupations by the state. Members are appointed by the Commissioner of Health. Members receive \$35 per diem plus expenses. Quarterly meetings at the Dept. of Health. For specific information contact the Human Services Occupations Advisory Council, Dept. of Health, 717 Delaware St. S.E., Mpls. 55440; (612) 623-5443.

ZOOLOGICAL BOARD has 1 vacancy open for a member. The board operates and maintains the Minnesota Zoological Garden. Members are appointed by the Governor. Members must file with the Ethical Practices Board. Members receive \$35 per diem plus expenses. Monthly meetings. For specific information contact the Zoological Board, 12101 Johnny Cake Rd., Apple Valley 55124; (612) 432-9010.

Department of Transportation

Meeting Notice, State Aid Standard Variance Committee

Notice is hereby given that the Commissioner of Transportation has appointed a State Aid Standard Variance Committee, which will conduct a meeting on Tuesday January 14, 1986 at 9:00 a.m. in Room 320 State Transportation Building, John Ireland Boulevard, St. Paul, Minnesota.

This notice is given pursuant to Minnesota Statute § 471.705.

The purpose of the open meeting is to investigate and determine recommendations for variances from minimum State Aid roadway standards as governed by Minnesota Rules for State Aid Operations § 8820.3400 Subp. 3, adopted pursuant to Minnesota Statutes 161 and 162.

The agenda will be limited to these questions:

1. Petition of the City of Lake Elmo for a variance from standards for right-of-way width on Municipal State Aid Street 101 (Lower 33rd Street) from Klondike Avenue to County State Aid 17.
2. Petition of the City of Minneapolis for a variance from standards for street width on Truck Highway 77 (Cedar Avenue) between Lake Nokomis Parkway and County State Aid Highway 62. The variance is necessary to allow Minneapolis to participate with municipal state aid funds in the construction costs of the project.
3. Petition of the City of Roseville for a variance from standards for street width on Municipal State Aid Street 241 (Cleveland Avenue) from County Road B-2 to Oakcrest Avenue.
4. Petition of the City of West St. Paul for a variance from standards for design speed on Municipal State Aid street 120 (Emerson Avenue) from Bidwell Street to Imperial Drive.
5. Petition of the County of Cook for a variance from standards for roadway width and inslopes on County State Aid Highway 1 from Trunk Highway 61 to a point 3.304 miles west of Trunk Highway 61.
6. Petition of the County of Winona for a variance from standards for roadway width on County State Aid Highway 44 (Garvin Heights Road) from Trunk Highway 61 and a point 1.5 miles south of Trunk Highway 61.

The Cities and Counties listed above are requested to follow the following time schedule when appearing before the Variance Committee.

- 10:00 a.m.—City of Lake Elmo
- 10:20 a.m.—City of Minneapolis
- 10:40 a.m.—City of Roseville
- 11:00 a.m.—City of West St. Paul
- 11:20 a.m.—County of Cook
- 11:40 a.m.—County of Winona

January 3, 1986

Richard P. Braun
Commissioner of Transportation

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
21-700-11971	Vending Machines	Jobs & Training	St. Paul	Contact buyer
07-300-37152	Surge Suppressors	Public Safety	St. Paul	Contact buyer
26-137-03261	Cont. Office Tables	St. Cloud State University	St. Cloud	Contact buyer
26-071-16310	Sputtersphere	Mankato State University	Mankato	Contact buyer
Contract 26-175-06402	Geochemical Analytical Services Furnish Chemical Feed Equipment	Natural Resources Southwest State University	Various Marshall	\$30,000-40,000 Contact buyer
29-003-09600	Lease Ind. Tractor	Natural Resources	Little Falls	Contact buyer
26-073-18555 & 18556	Petrographic Machinery	St. Cloud State University	St. Cloud	Contact buyer
79-000-50693	Traffic Signal Pedestral Bases	Transportation— Electrical	St. Paul	Contact buyer
26-070-11475	Purchase of Microfilm Reader Printer	Bemidji State University	Bemidji	Contact buyer
29-003-09728 Contract	Cardboard Boxes Overload Composition	Natural Resources Administration— Printing & Mailing Services	Willow River St. Paul	Contact buyer \$40,000-55,000
29-000-43231- 5121	MN Minerals	Natural Resources	St. Paul	Contact buyer
67-190-11282- 4214	Lettersize File Pockets	Revenue	St. Paul	Contact buyer
27-153-48284- 3772	College Catalog 1986-88	N. Hennepin Community College	Minneapolis	Contact buyer
Contract	Negatives Image Assembly, Proofing & Plating	Administration— Printing & Mailing Services	St. Paul	\$10,000-15,000
30-000-15693 Sch. 4	Digitizing Camera Meat & Meat Products for the Month of February 1986	State Planning	St. Paul	Contact buyer Contact buyer
02-410-48168	Wright Line Filing Equipment & Accessories	Administration— Information Management Bureau	St. Paul	Contact buyer
26-175-06412-16	Purchase of Personal Computer	Southwest State University	Marshall	Contact buyer
26-070-11486	Fixtures & Lamps	Bemidji State University	Bemidji	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
29-000-43158	Pump, Aerator Type	Natural Resources	Various	Contact buyer
27-145-48983-5163	General Catalog 1986-88	Willmar Community College	Willmar	Contact buyer
53-000-01601-5070	Voter Registration Cards	Secretary of State—Fiscal Operations	St. Paul	Contact buyer
21-607-32062, 32063, 33255	Furnish & Install Van Lift & Equipment	Jobs & Training—Vocational Rehabilitation	Pick Up	Contact buyer
79-000-51709	Signal Generators	Transportation—Aeronautics	St. Paul	Contact buyer
Contract 79-000-50544, 50543	Electrical Work—Metro Area Diesel Crawler Tractor	Various Transportation	Various Duluth, Rochester	Contact buyer Contact buyer
29-006-04769-Rebid	Used Farm Tractor	Natural Resources	Forest Lake	Contact buyer
Various Sch. 127	Wheelchairs Aircraft Liability Insurance	Various Various	Various Various	Contact buyer Contact buyer

Contact 296-6152 for referral to specific buyers.

Department of Human Services Health Care Programs Division

Contract Available for Psychiatric Services

The Department of Human Services intends to issue a consultant contract to a Board Certified Psychiatrist with a background and experience in the determination of disability. This physician will function as a member of the State Medical Review Team.

The contract will be available immediately and extend to June 30, 1987.

This contract will be awarded to a candidate based on his/her experience, education, achievements and professional standing. The Department of Human Services will make the final selection of a consultant and issue a contract based upon the Department's needs, but not to exceed \$18,000.00 for the period from present through June 30, 1987.

Proposals must be received by February 14, 1986 and should be directed to:

Thomas L. JoliCoeur, Supervisor
Health Care Programs Division
Professional Services Section
Space Center
444 Lafayette Road
St. Paul, Minnesota 55101
(612) 297-2022

Department of Transportation

Debarment Order for Kenneth G. Odland

Pursuant to Laws 1984, Chapter 654, Article 2, Section 8, Minnesota Rule 1230.3400, and a Stipulation for Informal Disposition dated December 23, 1985 you are debarred and disqualified from entering into or receiving a Minnesota Department of Transportation contract and from serving as a subcontractor or material supplier under a Mn/DOT contract. Neither you nor any business or entity owned by, or associated with you may enter into a contract with Mn/DOT or serve as a subcontractor or supplier of materials or services under a Mn/DOT contract.

Minnesota Rule 1230.3100, Subpart 9. states:

Subp. 9. Mn/DOT contract. "Mn/DOT contract" means a written instrument:

A. containing the elements of offer, acceptance, and consideration to which the Minnesota Department of Transportation is a party, or acts as an agent for a party under Minnesota Statutes, section 161.36, subdivisions 2 and 3, 360.016, subdivisions 2 and 3, or 360.039, subdivisions 2 and 3;

B. for which competitive bids are required or taken; and

C. which is subject to the approval of the commissioner.

This order takes effect on December 23, 1985, and continues until and including July 10, 1986.

12/30/85

R. McDonald
Deputy Commissioner

Department of Transportation

Debarment Order for McLaughlin & Schulz, Inc.

Pursuant to Laws 1984, Chapter 654, Article 2, Section 8, Minnesota Rule 1230.3400, and a Stipulation for Informal Disposition dated December 23, 1985 you are debarred and disqualified from entering into or receiving a Minnesota Department of Transportation contract and from serving as a subcontractor or material supplier under a Mn/DOT contract. Neither you nor any business or entity owned by, or associated with you may enter into a contract with Mn/DOT or serve as a subcontractor or supplier of materials or services under a Mn/DOT contract.

Minnesota Rule 1230.3100, Subpart 9. states:

Subp. 9. Mn/DOT contract. "Mn/DOT contract" means a written instrument:

A. containing the elements of offer, acceptance, and consideration to which the Minnesota Department of Transportation is a party, or acts as an agent for a party under Minnesota Statutes, section 161.36, subdivisions 2 and 3, 360.016, subdivisions 2 and 3, or 360.039, subdivisions 2 and 3;

B. for which competitive bids are required or taken; and

C. which is subject to the approval of the commissioner.

This order takes effect on December 23, 1985, and continues until and including July 10, 1986.

12/30/85

R. McDonald
Deputy Commissioner

Department of Transportation

Proposed Debarment of Charles E. Regenscheid

Notice of Proposed Debarment and Notice of Opportunity for Hearing

Pursuant to Laws 1984, Chapter 654, Article 2, Section 8 and Minnesota Rule 1230.3200, the Commissioner of Transportation proposes to disqualify you from receiving Minnesota Department of Transportation contracts and from serving as a subcontractor or material supplier under a Mn/DOT contract.

The debarment is proposed because you were convicted of bidrigging under Minn. Stat. Chapter 325D. in District Court at Mankato, Blue Earth County, Minnesota, on September 3, 1985. Bidrigging is a contract crime as defined in Minnesota Rule 1230.3100, Subpart 5.

Rule 1230.3200, Ground for Debarment states:

Subpart 1. Contract crime. A business must be debarred upon conviction in any jurisdiction, of the business or a principal of the business, for commission of a contract crime or when a conviction is imputed to the business under part 1230.3300.

You may request a hearing under Minnesota Statutes, Chapter 14, by submitting a written request for a hearing to Leo A. Korth, Minnesota Department of Transportation, Transportation Building, Room 612D, John Ireland Boulevard, St. Paul, Minnesota 55155 by January 21, 1986. If you request a hearing, an Administrative Law Judge will be appointed by the Chief Administrative Law Judge of the Office of Administrative Hearings to recommend to the Commissioner of Transportation whether there are grounds for debarment and the period of the debarment.

STATE CONTRACTS

If you do not request a hearing within 20 days from the date of this notice the allegations in this notice will be considered true and you will be debarred for a period of 30 days, effective December 30, 1985, through and including January 28, 1986.

12/30/85

R. McDonald
Deputy Commissioner

Department of Transportation

Suspension Order for Charles E. Regenscheid

Pursuant to Laws 1984, Chapter 654, Article 2, Section 8 and Minnesota Rule 1230.4200 you are suspended and disqualified from entering into or receiving a Minnesota Department of Transportation (Mn/DOT) contract and from serving as a subcontractor or supplier of materials or services under such a contract for a period of 60 days from the date of this order.

Minnesota Rule 1230.3100, Subpart 9. states:

Subp. 9. Mn/DOT contract. "Mn/DOT contract" means a written instrument:

A. containing the elements of offer, acceptance, and consideration to which the Minnesota Department of Transportation is a party, or acts as an agent for a party under Minnesota Statutes, section 161.36, subdivisions 2 and 3, 360.016, subdivisions 2 and 3, or 360.039, subdivisions 2 and 3;

B. for which competitive bids are required or taken; and

C. which is subject to the approval of the commissioner.

Minnesota Rule 1230.4200, Subpart 1. states:

Order of suspension. The commissioner of transportation shall suspend a person or business by order upon receiving notice or learning of a conviction for conduct described in part 1230.3200 or upon receiving evidence of an affiliation described in part 1230.3600, subpart 2.

1. You are suspended because you were convicted of bidrigging under Minnesota Statutes Chapter 325D in District Court at Mankato, Blue Earth County, Minnesota on September 3, 1985.

Debarment proceedings against you will begin within 10 days.

12/30/85

R. McDonald
Deputy Commissioner

SUPREME COURT DECISIONS

Decisions Filed Friday, January 3, 1986

Compiled by Wayne O. Tschimperle, Clerk

C7-85-1343 Bruce A. Hauglid, Relator v. Sandberg Erection Company and Aetna Life and Casualty Company. Workers' Compensation Court of Appeals.

The WCCA's insurer's construction of Minn. Stat. § 176.645 (1978) is affirmed because, although not likely to protect employee's receiving disability benefits from the effects of inflation over an extended period of time and probably inimical to the purposes and policy of Minn. Stat. § 176.102, it cannot be said to be unquestionably contrary to legislative intent.

Affirmed. Kelley, J.

Took no part, Peterson, J.

C6-84-1243 Edward W. Bergquist, as Trustee for the Heirs of Erik Henry Boteus, Decedent v. Medtronic, Inc., et al., Petitioners, Appellants. Court of Appeals.

In deciding motions to dismiss on grounds of forum non conveniens the presumption given the plaintiff's choice of forum shall have less effect when the plaintiff is foreign. Minnesota adopts the rule of *Piper Aircraft Co. v. Reyno*, 454 U.S. 235 (1981).

The trial court did not abuse its discretion in dismissing the cause of action on grounds of forum non conveniens.

ERRATA

While the cause of action is dismissed, it may be brought again in the Minnesota courts if the case cannot be litigated in Sweden.
Reversed. Yetka, J.

Took no part, Peterson, J.

C4-84-463 In the Matter of the Application for the Discipline of William Charles Hoffman, an Attorney at Law of the State of Minnesota. Supreme Court.

Publicly reprimanded. Per Curiam.

Took no part, Kelley, J.

C9-84-1060 In Re the Marriage of: Mabel M. Rohling, Petitioner, Appellant v. Carl B. Rohling. Court of Appeals.

It was not an abuse of discretion for the trial court to include, as part of the marital property distribution, retirement funds received by the husband after the filing of a marriage dissolution petition but before the final dissolution.

It was not an abuse of discretion for the trial court, in placing an equitable lien on the homestead in favor of the husband, to hold that it need not be paid for 15 years.

It was not an abuse of discretion for the trial court to deny maintenance under Minn. Stat. § 518.552 in these circumstances, where the wife received sufficient property to provide for her reasonable needs.

Reversed. Scott, J.

Took no part, Peterson, J.

C5-84-1105 State of Minnesota, Appellant v. Stanley Paul Olson. Court of Appeals.

Defendant was convicted of violating Minn. Stat. § 609.53, subd. 1(1), receiving stolen property valued at \$1,000 or more. The trial court did not err in determining for sentencing purposes that the property was worth more than \$2,500 where the defendant did not request submission to the jury of a special interrogatory and the evidence that the stolen property had a value far in excess of \$2,500 was uncontroverted.

Reversed in part; original sentence reinstated. Coyne, J.

Concurring Specially, Scott, J., Yetka, J., and Amdahl, C.J.

ERRATA

OFFICE OF THE ATTORNEY GENERAL

2000.0200; .0300; .0400; .0500; .0600; .0700;
.0800; .0900; .1000; .9900; .9905; .9910; .9915;
.9920; .9925; .9930; .9935; .9940; .9945; .9950;
.9955; .9960; .9965; .9970; .9975; .9977; .9980;
.9983; .9985 (Errata) 1547
2010.0200-.1400; .9900-.9960 (Errata) 1547

DEPARTMENT OF HEALTH

4695.0300; .0800 (Errata) 1548

DEPARTMENT OF LABOR AND INDUSTRY

5221.0100-.3200 [Republished] (Errata) 1548

Attorney General's Office

Correction of Proposed Rules Relating to Rule Reviews

An error occurred in the December 30, 1985 printing of the Attorney General's Proposed Rules on Rule Reviews (published in Volume 10, Number 27 of the *State Register* on page 1457; rule citation is 10 SR 1457). The error occurred on page 1473, in Rule No. 2010.9960, Recommended Notice of Submission of the Emergency Rule to Attorney General. The following partial sentence should be removed:

"obtained from the Board by writing or telephoning Norman Hanson at the address or telephone number listed above in Part II of this notice."

ERRATA

Department of Health

Correction of Proposed Rules Governing the Cost Effectiveness and Economic Impact of the Regulation of Human Service Occupations

Correction of Notice of Intent to Adopt Rules with a Public Hearing if 25 or more Persons Request a Hearing

A sentence was misplaced in the publication of the above-referenced rules in Volume 10, Number 27 of the *State Register*, dated December 30, 1985 [10 SR 1473].

At the top of the page on page 1473, the following sentence was inadvertently printed at the end of the Attorney General's proposed rules on rule review:

"obtained from the Board by writing or telephoning Norman Hanson at the address or telephone number listed above in Part II of this notice."

This line belongs at the bottom of page 1474, in Section III, Department of Health, Notice of Intent to Adopt Rules with a Public Hearing if 25 or more Persons Request a Hearing. The last paragraph on page 1474 should read:

"The proposed rules were published in the *State Register* [10 S.R. 724] September 30, 1985, and a free copy of them may be obtained from the Department by writing or telephoning Norman Hanson at the address or telephone number listed above in Part II of this notice."

Department of Labor and Industry

Correction to Workers' Compensation; Medical Service Fees

An error was made in the Medical Service Fees printed in the *State Register*, Volume 10, Number 14, September 30, 1985, pages 765-800. The wrong fee was printed in Rule number 5221.2250 PHYSICIAN SERVICES—SURGERY (page 775, top of the page). The correct fee (and the correct passage) are as follows:

Code	Service	Maximum Fee
22555	Arthrodesis with diskectomy, cervical, anterior interbody approach with iliac or other autogenous bone grant (includes obtaining graft)	\$440.00 <u>\$2,047.00</u>

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