

86, December 22

4

STATE OF MINNESOTA

STATE REGISTER

DEPARTMENT OF ADMINISTRATION—DOCUMENTS DIVISION



RECEIVED
DEC 22 1986
LEGISLATIVE REFERENCE LIBRARY
STATE CAPITOL
ST. PAUL, MN. 55155

Monday 22 December 1986
VOLUME 11, NUMBER 25
Pages 1093-1132

STATE REGISTER

Judicial Notice Shall Be Taken of Material Published in the *State Register*

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, official notices to the public, state and non-state public contracts, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

Volume 11 Printing Schedule and Submission Deadlines

Vol. 11 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
25	Monday 8 December	Monday 15 December	Monday 22 December
26	Monday 15 December	Friday 19 December	Monday 29 December
27	Friday 19 December	Friday 26 December	Monday 5 January
28	Friday 26 December	Monday 5 January	Monday 12 January

*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 State Register editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *State Register* is published by the State of Minnesota, Department of Administration, 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 \$3.50 per copy.

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

Governor: Rudy Perpich

**Director, Minnesota Documents
Division:** Stephen A. Ordahl

Editorial Staff: Paul Hoffman

**Commissioner, Department of
Administration:** Sandra J. Hale

Editor: Robin PanLener

Circulation Manager: Debbie Kobold

FOR LEGISLATIVE NEWS

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

SENATE

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

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

Contact: Senate Public Information Office
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

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

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

CONTENTS

MINNESOTA RULES

Amendments & Additions

Issues 14-25 inclusive 1096

PROPOSED RULES

Health Department

Grants for Maternal and Child Health Services 1098

Pollution Control Agency

Small Quantity Generators 1102

ADOPTED RULES

Human Services Department

Administration of the Medical Assistance Prepaid
Demonstration Project in Minnesota 1107

Pharmacy Board

Controlled Substances 1113

Pollution Control Agency

Waste Tire Dump Abatement 1113

OFFICIAL NOTICES

Animal Health Board

Notice of Quarterly Meeting 1114

Commerce Department

Bulletin of Pending Applications Regarding the
Reciprocal Interstate Banking Act 1114

Notice of Activation of the Minnesota Joint

Underwriting Association to Insure Specified
Classes of Business and Public Hearing 1115

Housing Finance Agency

Notice of Public Hearing on Annual Policy
Statement 1116

Human Services Department

Notice of Publication of Annual Title XX Intended
Use Report—Block Grant for Social Services 1116

Pollution Control Agency

Opinion Sought on Rules Governing Management of
Hazardous Waste 1117

Transportation Department

Petition of Hubbard County for Variance from State
Aid Standards for Design Speed 1117

STATE CONTRACTS

Administration Department: Procurement

Contracts & Requisitions Open for Bid 1118

Requests for Proposals to Firms in Third Party

Financing for Energy Conservation Measures 1118

Human Services Department

Request for Proposal for Medical Services 1119

Public Safety Department

Request for Proposals for DWI/Vehicle Stopping/
Emergency Vehicle Operation Training 1119

Request for Proposals for Police Staff and Command

Training 1120

Request for Proposals for Police Supervisory

Training 1120

NON-STATE PUBLIC CONTRACTS

Metropolitan Council

Ad for Consultant Contract for System Programming
Support for 1987 1121

SUPREME COURT CALENDAR

January 1987 1121

SUPREME COURT DECISIONS

Decisions and Orders Filed Friday 12 December

1986 1126

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:

- 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 requested by an agency.)
• 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 are included in a supplement published 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:

Table with 2 columns: Issue range and Issue number. Includes: 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.

MINNESOTA RULES AMENDMENTS AND ADDITIONS

NOTE: This listing includes all proposed and adopted rules printed in this issue except emergency rules and errata for this issue. Please see those sections for the appropriate rule numbers.

ACCOUNTANCY BOARD

1100.3600; .2150; .2750; .3250 (adopted) 1005

AGRICULTURE DEPARTMENT

1555.6950 (proposed) 914
1580.0100-.0900 (Adopted) 713

COMMERCE DEPARTMENT

2655.0100; .0200; .0300; .0400; .0500; .0600 (proposed) 761

EDUCATION DEPARTMENT

3510.9000 (proposed) 686
3510.9000, s.6 (proposed repealer) 686

ENERGY & ECONOMIC DEVELOPMENT

4160.5100; .5200; .5300; .5400; .5500; .5600; .5700; .5800; .5900 (proposed) 850
4300.3100 s.2 (adopted) 1042
4360.0100; .0200; .0300; .0400; .0500; .0600; .0700; .0800; .0900; .1000; .1100; .1200 (adopted) 866

ENVIRONMENTAL QUALITY BOARD

4410.0200; .0500; .3100; .3600; .4300; .4400; .4600; .7500 (Adopted) 713

ETHICAL PRACTICES BOARD

4500.0100; .1600; .3900; .4100; .4200; .4400; 4505.0100; .0300; 4510.0100; .1000; 4515.0100; 4520.0100; .4525.0100; .0200; .0500 (proposed) 1027
4500.1300; .3100; s.6; 4525.0300; .0400; .0600; .0700; .0800 (proposed repealer) 1027

HEALTH DEPARTMENT

4615.0200 (proposed repealer) 1098
4655.5610 (Emer. adopted) 747
4656.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090 (proposed) 970
4670.1320; .4200; .4210; .4220; .4230; .4240 (adopted) 1069
4670.3070 (adopted) 1069
4670.3070 s.4,5,6; .3080 s.3 (repealed) 1069
4700.2600; .2700; .2800; .2900; .3000; .3100; .3200; .3300; .3400; .3500; .3600; .3700; .3800; .3900; .4000 (proposed) 1098

HOUSING FINANCE AGENCY

4900.0010 (adopted) 740
4900.0381 (Emer. Extended) 1045

MINNESOTA RULES AMENDMENTS AND ADDITIONS

HUMAN RIGHTS DEPARTMENT

5000.0050; .0300; .0400; .0500; .0510; .0520; .0530; .0540; .0550; .0560; .0570; .0580; .0700; .0750; .0800; .0900; .1100; .1200; .2000; .2100; .2200; .2250; .2300; .2400 (adopted)	740
5000.0200; .0600; .0700 s.3,4,5,6,7; .1000; .1300; .1400; .1500; .1600; .1700; .1800; .1900 (repealed)	740

LABOR & INDUSTRY DEPARTMENT

5200.0010; .0030; .0060; .0070; .0080; .0090; .0120; .0121; .0211; .0221; .0241; .0242; .0251; .0261; .0262; .0270; (proposed)	768
5200.0080 s.1,5,9; .0250; .0970 (proposed repealer)	768
5205.0010 (adopted)	867
5221.2900 (Errata)	711
5222.0100; .0200; .0300; .0400; .0500; .0600; .0700; .0800; .0900; .1000 (Withdrawal Proposed Repeal)	711
5222.2000-.2006 (proposed)	738

MEDIATION SERVICES BUREAU

5510.1410; .1510; .1710 (adopted)	669
5510.5110; .5120; .5130; .5131; .5140; .5150; .5160; .5170; .5180 (proposed)	1066
5510.4600; .4700; .4800; .4900; .5000; .5100 (proposed repealer)	1066

MEDICAL EXAMINERS BOARD

5600.2500 (adopted)	777
---------------------------	-----

NATURAL RESOURCES DEPARTMENT

6100.1710 (Adopted)	714
---------------------------	-----

NURSING BOARD

6310.7700 (modification)	842
--------------------------------	-----

OPTOMETRY BOARD

6500.0100; .0150; .2700 (proposed)	773
--	-----

PHARMACY BOARD

6800.4210; .4220; .4240; .4250 (adopted)	1113
--	------

POLLUTION CONTROL AGENCY

7001.0150; .0520; .0590; .0600; .0620; .0650; .0712; .0720; 7045.0200; .0075; .0080; .0102; .0120; .0125; .0135; .0139; .0141; .0214; .0261; .0275; .0296; .0302; .0395; .0458; .0460; .0468; .0476; .0478; .0482; .0484; .0485; .0538; .0552; .0556; .0584; .0588; .0638; (proposed)	916
Ibid. (errata)	1087
7035.8000; .8010; .8020; .8030; .8040; .8050; .8060; .8070; .8080 (adopted)	1113
7045.0534 s.4,5 (proposed repealer)	916
Ibid. (errata)	1087
7045.0075; .0219; .0261; .0292; .0381 (proposed)	1102

PUBLIC SAFETY DEPARTMENT

7414.0200; .0400 (proposed)	891
7419.0100; .0200; .0300; .0400; .0500; .0600; .0700; .0800; (adopted)	777
7440.0100; .0300; .0350; .0400 (adopted)	957

7503.0800 (proposed)	775
7520.0650; .1000 (adopted)	1075

PUBLIC UTILITIES COMMISSION

7845.0100-.1000 (Adopted Emergency)	715
---	-----

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

7950.0100; .0200; .0300; .0400; .0500 (adopted)	1042
---	------

ENERGY AND ECONOMIC DEVELOPMENT DEPARTMENT

8300.4101-.4112 (adopted)	669
8300.5000-.5006 (adopted)	713

SOIL & WATER CONSERVATION BOARD

8400.4000-.4080 (adopted)	742
---------------------------------	-----

TEACHING BOARD

8700.0210; .0502; .0900; .1000; .1100; .1300; .1400; .2200; .4710; .5900; .7800 (proposed)	1035
8700.2600; .5000 (proposed repealer)	1035
8700.4700 (proposed repealer 7/1/90)	1035

TRANSPORTATION DEPARTMENT

8860.0100; .0200; .0300; .0400; .0500; .0600; .0700; .0800 (adopted)	690
---	-----

TRANSPORTATION REGULATION BOARD

8900.0100-.1100 (adopted)	691
---------------------------------	-----

WATER RESOURCES BOARD

9300.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090; .0100; .0110; .0120; .0130; .0140; .0150; .0160; .0170; .0180; .0190; .0200; .0210 (proposed)	854
---	-----

HUMAN SERVICES DEPARTMENT

9500.1090; .1100; .1110; .1115; .1125; .1126; .1130; .1135; .1150; .1155 (proposed)	975
9500.1125 s.5 (proposed repealer)	975
9500.1100 (proposed)	987
9500.1450-.1464 (adopted)	1107
9500.1450-.1464 (repealed 12/31/88)	1107
9500.1650-.1663 (adopted)	957
9505.0010-.0150 (adopted)	1069
9505.0211; .0212 (Emergency extended)	714
9505.0500; .0510; .0520; .0530; .0540 (proposed)	1031
9525.1290 (proposed)	709
9530.6600-.6655 (adopted)	1005
9549.0030; .0036; .0041; .0060 (adopted)	866
9549.0050-.0059 (Withdrawn Proposed)	710
9549.0050-.0059 (proposed)	988
9549.0050-.0060 (errata)	1054
9549.0060 (proposed)	1004
9555.5105; .5205; .5305; .5405; .5415; .5505; .5605; .5705; .6105; .6115; .6125; .6145; .6155; .6165; .6167; .6175; .6185; .6195; .6205; .6215; .6225; .6233; .6245; .6255; .6265 (proposed)	650
9555.5100; .5200; .5300; .5400; .6100; .6200; .6300; .6400 (proposed repealer)	650
9575.1070 (adopted)	893
9575.1070 s.3,4,5; .1080 s.3 (repealed)	893
9575.0350; .1500 (adopted)	1075

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 Health

Proposed Permanent Rules Relating to Grants for Maternal and Child Health Services

Notice of Intent to Adopt a Rule and Repeal a Rule without a Public Hearing

Notice is hereby given that the Minnesota Department of Health intends to adopt rules relating to the distribution of federal and state maternal and child health funds for project grants and to repeal Minnesota Rules part 4615.0200 relating to the care of infants in private homes. The Department intends to adopt and repeal the above-described rules without a public hearing, following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes sections 145.884 and 145.889. The statutory authority to repeal part 4615.0200 is in Minnesota Statutes sections 144.05 and 144.12.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or repealer, or any part or subpart of the rule or the repealer. Comment is encouraged. Each comment should identify the portion of the proposed rule or repealer addressed, the reason for the comment, and any change proposed.

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

Comments or written requests for a public hearing must be submitted to:

David Giese, Assistant Director
Maternal and Child Health Division
Minnesota Department of Health
717 Delaware Street Southeast
Minneapolis, Minnesota 55440
Telephone: (612) 623-5170

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed. A copy of the proposed rule relating to maternal and child health funds is attached to this notice.

Part 4615.0200 is proposed to be repealed in its entirety. The rule may be found at Minnesota Rules part 4615.0200 (1985).

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared. A separate Statement of Need and Reasonableness is also available concerning the repeal of part 4615.0200. Both documents are available from David Giese upon request.

If no hearing is required, upon adoption of the rule and repealer, the rule and repealer and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of

this material to the Attorney General, or who wish to receive a copy of the adopted rule must submit the written request to David Giese at the above address.

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed (all new material)

4700.2600 PURPOSE.

The purpose of parts 4700.2600 to 4700.4000 is to establish a process for allocating federal maternal and child health funds and state funds in the form of grants to assist in establishing and maintaining maternal and child health services.

4700.2700 SCOPE.

Parts 4700.2600 to 4700.4000 apply generally to maternal and child health project grants awarded by the commissioner under Minnesota Statutes, sections 145.88 to 145.889. The money available for the grant awards governed by parts 4700.2600 to 4700.4000 comes from federal sources, under United States Code, title 42, sections 701 to 709, as amended through July 18, 1984, and from state appropriations. Parts 4700.2600 to 4700.4000 do not prescribe the exclusive requirements uniformly applicable to federal and state grants, but are in addition to any requirements specified in the federal and state enabling and authorizing laws governing grant programs, as well as applicable federal regulations and directives.

4700.2800 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4700.2600 to 4700.4000, the following terms have the meanings given them.

Subp. 2. **Application.** "Application" means a written request for funds submitted by the applicant on forms provided by the commissioner.

Subp. 3. **Award.** "Award" means the authorization by the commissioner for an applicant to receive and expend grant funds for an activity.

Subp. 4. **Competitive grant projects.** "Competitive grant projects" means those maternal and child health activities selected by the commissioner on a competitive basis and funded under Laws of Minnesota 1985, First Special Session chapter 14, article 19, section 37, subdivision 4, paragraph (d).

Subp. 5. **Formula grant projects.** "Formula grant projects" means those maternal and child health activities approved by the commissioner and funded under Minnesota Statutes, section 145.882, subdivisions 3 and 4.

Subp. 6. **Local match.** "Local match" means the applicant's share of the cost of maternal and child health activities for which federal and state funds are awarded.

Subp. 7. **Notice of availability.** "Notice of availability" means a written announcement by the commissioner noting the availability of funds.

Subp. 8. **Notice of intent.** "Notice of intent" means a written response to a notice of availability that must be submitted to the commissioner by the applicant in accordance with the timetable specified in the notice of availability.

Subp. 9. **Pre-block grant projects.** "Pre-block grant projects" means those maternal and child health special projects funded in state fiscal year 1983 and continued under Minnesota Statutes, section 145.882, subdivision 1.

Subp. 10. **Technically completed applications.** "Technically completed applications" means applications that contain all the information specified in the notice of availability and in part 4700.3200 as well as any additional information that the commissioner considers necessary for the proper review of applications and award of funds.

AVAILABILITY OF FUNDS AND APPLICATION PROCESS

4700.2900 NOTICE OF AVAILABILITY.

The commissioner shall mail a notice of availability of grant funds to interested parties and local boards of health who have requested the commissioner in writing to be notified. The notice of availability must also be published in the State Register and must include at least the following information:

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

PROPOSED RULES

- A. the specific purposes for which funds are available;
- B. the eligibility requirements for applicants;
- C. the format of the notice of intent to apply for funds;
- D. the final dates for submission of notice of intent and for submission of applications;
- E. the expected timetable for review of applications by the commissioner; and
- F. the regional review requirements.

4700.3000 NOTICE OF INTENT.

Interested parties shall notify the commissioner in writing of intent to apply for funds in accordance with the timetables and format specified in the commissioner's notice of availability.

4700.3100 PROVISION OF APPLICATION FORMS.

Upon receipt of the notice of intent, the commissioner shall send application forms and instructions to interested parties who have submitted notices of intent.

4700.3200 SUBMISSION OF APPLICATION.

Applications shall be submitted to the commissioner by the date specified in the notice of availability. Applicants for pre-block grant projects, formula grant projects, and competitive grant projects shall provide the information specified in Minnesota Statutes, section 145.885, subdivision 1. Local boards of health applying for formula grant projects shall also provide the information specified in Minnesota Statutes, section 145.885, subdivision 2. Formula grant project applications may include the local component of projects of regional or statewide significance. The commissioner may require additional information that is necessary for the proper review of applications and award of funds consistent with the purposes of Minnesota Statutes, sections 145.88 to 145.889. The commissioner may refuse to award a grant for failure of an application to provide such information.

4700.3300 ADDITIONAL REQUIREMENTS FOR FORMULA GRANT PROJECT APPLICANTS.

Local boards of health intending to apply for formula grant projects shall:

- A. Notify local public and private providers of the availability of funding through the local board of health for maternal and child health services. The notification process shall include direct mailings to providers and publication of pertinent information in newspapers of general circulation in the community health services area.
- B. Develop a written statement of the criteria to be applied to public and private agency requests for funding and make it available to providers and other interested parties.
- C. Explain how priorities were established for selecting the requests to be included in the formula grant application and make information available to providers and other interested parties.

REVIEW AND DISPOSITION OF APPLICATIONS

4700.3400 REGIONAL REVIEW.

The applicant shall submit one copy of the completed application form to the commissioner by the date specified in the notice of availability and shall concurrently submit one copy of the completed application form to each of the following entities for the area in which the proposed activity will take place: regional development commission, health systems agency, and local board of health. Any comments of the regional development commission, health systems agency, or local board of health shall be submitted to the commissioner within 45 days after receipt of the application.

4700.3500 COMMISSIONER REVIEW.

The commissioner shall review all applications in accordance with the time schedule specified in the notice of availability. Consideration shall be given by the commissioner to the following criteria in determining which activities shall receive funds:

- A. a determination that all legal conditions of eligibility are established under Minnesota Statutes, sections 145.882, subdivisions 1, 3, 5, and 7 and 145.883, subdivision 3;
- B. a determination that the application is technically completed;
- C. in the case of formula grant project applicants, evidence of compliance with part 4700.3300 and Minnesota Statutes, section 145.885, subdivision 2;
- D. evidence of the availability of local match consistent with Minnesota Statutes, section 145.888; and
- E. the findings submitted by the regional review agencies and the advisory task force established under Minnesota Statutes, section 145.881.

4700.3600 DISPOSITION.

The commissioner shall inform each applicant in writing that one of the actions in items A to D has been taken with respect to its application.

- A. Approval of application as submitted.
- B. Approval of application with modifications.
- C. Conditional disapproval due to inadequate funds. In this case, the applications shall be retained by the commissioner pending availability of additional funds.
- D. Disapproval of application with justification.

The commissioner's notice of award shall specify the amount of the award, source of funds, duration of the funding period, and other conditions necessary for assuring the appropriate use of public funds.

ADMINISTRATION**4700.3700 MONITORING.**

A staff member of the Department of Health shall be designated to act as monitor for each grant awarded. The person designated shall, in consultation with the award recipient, provide or arrange for administrative and technical support and shall monitor progress toward the goals and objectives of the activity.

4700.3800 RESPONSIBILITIES OF AWARD RECIPIENTS.

In addition to fulfilling the goals and objectives of the activity, the award recipients shall:

- A. comply with the terms and conditions of the commissioner's award notice and with the requirements of parts 4700.2600 to 4700.4000 and other applicable laws and rules;
- B. maintain such records, including program and accounting records, as are necessary to make the required reports and to permit assessment of the activity by the commissioner;
- C. provide the commissioner with access to records relating to the funded activity;
- D. provide progress reports in accordance with a schedule specified in the commissioner's award notification;
- E. assure that:
 - (1) the recipient's treasurer or an official exercising similar functions shall receive and provide for the custody of all funds paid by the commissioner;
 - (2) all local funds expended by the recipient in order to match a directly-awarded federal grant are reported on the budget and expenditure form;
 - (3) the local funds identified as local match are used solely to match the specific grant awarded by the commissioner;
 - (4) funds are used solely for the purpose authorized in the award;
 - (5) accounting records are supported by source documents;
 - (6) audits are conducted to determine the fiscal integrity of financial transactions and reports;
 - (7) fiscal and programmatic accountability is maintained for all subcontracts;
 - (8) services will be provided in accordance with program standards of the commissioner and standards of accepted professional organizations such as the American Academy of Pediatrics; and
 - (9) funds will not be used for inpatient services except for high risk pregnant women and infants.

4700.3900 DISQUALIFICATION.

The commissioner shall withhold or terminate funding for failure to comply with the terms of the award or with the requirements of the applicable rules or statutes. The commissioner shall require reimbursement of unauthorized expenditures identified by fiscal audit.

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

4700.4000 UNIFORM REPORTS.

Award recipients shall furnish uniform reports to the commissioner. Reports of expenditure, filed on forms provided by the commissioner, and annual reports of evaluations of activities shall be submitted no later than 90 days following the close of the fiscal year.

REPEALER. Minnesota Rules, part 4615.0200 is repealed.

Pollution Control Agency

Proposed Permanent Rules Relating to Small Quantity Generators

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the State of Minnesota intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. §§ 14.22 to 14.28. The statutory authority to adopt the rules is Minn. Stat. § 116.07, subd. 4 (1984).

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Interested persons have until 4:30 p.m. on January 21, 1987 to submit comments on the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Minnesota Pollution Control Agency (MPCA) will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Carol Nankivel
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155

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

The rules follow this notice. One free copy of the rules is available on request from the MPCA. Contact Carol Nankivel at 612/296-7260 or at the address listed above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is also available from Carol Nankivel upon request at 612/296-7260 or at the address listed above.

You are hereby advised pursuant to Minn. Stat. § 14.115 (supp. 1985), "Small business considerations in rulemaking," that the proposed amendments will have a minimal impact on small businesses. Since most aspects of the amendments are already required under the federal hazardous waste program, the MPCA is merely adopting as State rules the regulations already in effect on the federal level. The provisions which are not based on federal requirements and which are more stringent than the existing State rules only address the requirement that small quantity generators comply with the pretransport requirements to label, mark and placard waste before shipment and to generally identify the contents of waste containers during the accumulation period. These additional requirements are not expected to impose a significant burden on small businesses.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Carol Nankivel at the address listed above.

Dated: 8 December 1986

Thomas J. Kalitowski, Executive Director
Pollution Control Agency

Rules as Proposed

7045.0075 PETITIONS.

Subpart 1. to 4. [Unchanged.]

Subp. 5. Petition for use of alternate manifest. A person who meets the criteria in item A may submit a petition to the director for approval of the use of an alternate manifest system as described in item B. The criteria the director shall use in determining whether to approve the use of the alternate manifest system are provided in item C.

A. Only persons meeting the following criteria are eligible to file a petition under this subpart:

(1) the person proposing to use the alternate manifest system must agree to only use the alternate manifest for the transportation of waste from small quantity generators;

(2) the person proposing to use the alternate manifest system must agree to only use the alternate manifest for waste that will be reclaimed under a contractual agreement specifying the type and frequency of waste shipments; and

(3) the person proposing to use the alternate manifest system must own and operate the recycling facility to which the waste is proposed to be transported, and must also own the vehicle to be used in transporting the waste to the recycling facility and in delivering reclaimed material back to the generator.

B. Upon approval, an alternate manifest system may be used in lieu of the manifest system described in parts 7045.0261 to 7045.0265. The director shall only approve alternate manifest systems meeting the following criteria:

(1) The alternate manifest system must include a manifest form to be used by the generator to notify the director each time waste is transported under this subpart. The manifest form must include: a space for the generator's name, mailing address, telephone number, and United States Environmental Protection Agency identification number; a space for the transporter's name and United States Environmental Protection Agency identification number; a space for the name, address, telephone number, and United States Environmental Protection Agency identification number of the recycling facility; a space for the United States Department of Transportation shipping name, hazard class, and identification number of the waste as specified in the United States Department of Transportation Code, title 49, parts 171 to 179; a space for the number and type of containers and total volume of the waste being shipped; a space for the waste identification number as specified in part 7045.0131, 7045.0135, or 7045.0137; a space for the signature of the generator or the generator's authorized representative affirming the correctness of the information; the mailing address of the director; and a statement advising the generator to complete the form and submit it to the director within five working days of transporting waste.

(2) The alternate manifest system must provide for the petitioner's submittal, on a monthly basis, of summaries of the names and identification numbers of generators who transported wastes using the alternate manifest and the volume and number of containers of each waste type shipped by each generator.

(3) The alternate manifest system must allow generators the option of using the manifest system provided in parts 7045.0261 and 7045.0265 in lieu of the alternate manifest system.

C. To obtain the director's approval of the alternate manifest system, the petitioner must:

(1) submit information demonstrating that the petitioner meets the criteria in item A;

(2) submit information demonstrating that the proposed alternate manifest system meets the criteria in item B; and

(3) submit information demonstrating the effectiveness and reliability of the alternate manifest system, including the following: information on the waste that will be managed and the general type of customers who will be using the alternate manifest system; information on the type of recycling service provided by the petitioner and a description of the petitioner's recycling facility; information on the type of vehicle to be used and the system to be used to pick up and deliver waste from the generator to the petitioner's recycling facility; and a discussion of the measures to be taken to educate generators on the use of the alternate manifest and their responsibilities as waste generators.

7045.0219 SPECIAL REQUIREMENTS FOR SMALL QUANTITY GENERATORS OF HAZARDOUS WASTE.

Subpart 1. [Unchanged.]

Subp. 2. **Exemption.** ~~A generator maintaining small quantity generator's hazardous wastes are not subject to the generator status~~

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

is only required to comply with the generator requirements of parts 7045.0205 to 7045.0304 and a hazardous waste facility permit if the generator complies with the requirements of this part as provided in subpart 5.

Subp. 3. **Excessive generation.** Except as provided in item B, if the quantity of hazardous waste generated in any calendar month exceeds the quantities listed in subpart 1, the small quantity generator becomes a loses small quantity generator status and thereafter is subject to all the generator requirements of this chapter.

A. Once small quantity generator status is lost, the generator shall not regain that status until the generator is notified in writing by the director that small quantity generator status has been approved. The director shall only approve small quantity generator status under this subpart if the generator can demonstrate to the satisfaction of the director that the waste quantities that will be generated in the future will meet the limits established in subpart 1. The generator shall make this demonstration by submitting a written statement to the director requesting reclassification as a small quantity generator and including the information necessary for the director to evaluate the request. The information shall include an explanation of the circumstances that resulted in each instance of overgeneration during the past year; an explanation of the measures that the generator has taken to correct the cause of overgeneration; and other information as may be necessary to document that the overgeneration will not reoccur.

B. If the quantity of hazardous waste generated in any calendar month exceeds the quantities listed in subpart 1 and the cause of the overgeneration is a spill or accidental release of a hazardous waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E; the shut-down or cleanup of some part of the generation process; or the replacement of PCB containing equipment, the small quantity generator loses small quantity generator status and is subject to all the generator requirements of this chapter. However, in any of these cases, a generator will automatically regain small quantity generator status without applying to the director for approval if the generator:

- (1) resumes generation within the quantity limits in subpart 1; and
- (2) complies with the quantity limits in subpart 1 during the other eleven months of the calendar year.

A generator who cannot automatically regain small quantity generator status under this subpart may apply for reclassification under item A.

C. Wastes accumulated when small quantity generator status is lost are ineligible for management under part 7045.0219 and must be managed in accordance with the generator requirements in this chapter, regardless of the cause of the excessive generation.

Subp. 4. **Accumulation on-site.** A small quantity generator who does not have a permit or interim status may accumulate hazardous waste on-site under the following conditions: if the quantity of hazardous waste accumulated at any time exceeds the quantities listed in subpart 1 set forth in item A or B, whichever applies, the small quantity generator must manage all of the accumulated waste according to in accordance with all the generator requirements of this chapter set forth in parts 7045.0205 to 7045.0304, excluding this part, but does not lose the small quantity generator status. The time period of part 7045.0292, subpart 1, item A for accumulation of wastes on-site for a small quantity generator begins when the accumulated wastes exceed the applicable exclusion level.

A. The following provisions apply to waste not listed as acute hazardous waste:

(1) A small quantity generator who in a calendar month generates at least 100 kilograms of waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E may accumulate that waste on-site for 180 days or less if the quantity of waste accumulated on-site never exceeds 3,000 kilograms and the small quantity generator meets all the requirements of subpart 5. For purposes of this subitem, the time period for accumulation begins when the generator begins accumulation in a container or tank.

(2) A small quantity generator who in a calendar month generates less than 100 kilograms of waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E may accumulate that waste on-site indefinitely until 1,000 kilograms of waste are accumulated, at which point the small quantity generator may only store the waste on-site for a period of 180 days following the date the 1,000 kilogram limit is reached. A small quantity generator accumulating waste under this subitem must meet the requirements of subpart 5, except for subpart 5, item B, subitems (2) to (5).

(3) If waste accumulated under item A, subitem (1) or (2) must be transported 200 miles or more to a facility, the small quantity generator may store the wastes for an additional 90 days beyond the established limits. In this event, the small quantity generator must maintain evidence on-site that arrangements have been made for the transport of the waste to the facility and, if requested, show the evidence to the director.

B. The following provisions apply to waste listed as acute hazardous waste: a small quantity generator who generates waste listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E may accumulate that waste on-site indefinitely until the limit of subpart 1, item B or C is met, at which point the small quantity generator must manage the waste on-site in accordance with all the generator requirements in parts 7045.0205 to 7045.0304, excluding this part. Until then, a small quantity generator accumulating wastes under this item must meet the requirements of subpart 5, except for subpart 5, item B, subitems (2) to (5).

Subp. 5. Management requirements. A

A. Small quantity ~~generator~~ generators shall comply with the following requirements of this chapter:

~~A.~~ (1) parts 7045.0214 to 7045.0217;

~~B.~~ (2) parts 7045.0220 to 7045.0255 except part 7045.0230, subpart 1, item G;

~~C.~~ (3) parts 7045.0261 ~~and 7045.0265~~ to 7045.0290, except that an alternate manifest system may be used if the director approves such system under part 7045.0075, subpart 5;

~~D.~~ parts 7045.0275 and 7045.0290;

~~E.~~ (4) part 7045.0292, subpart 1, items ~~D C~~ to G F and as applicable, subpart 4;

~~F.~~ (5) parts 7045.0294 to 7045.0302;

(6) parts 7045.0566 and 7045.0568; and

(7) parts 7045.0626 and 7045.0628.

B. Unless explicitly exempted under subpart 4, all small quantity generators must also comply with the following requirements:

(1) Small quantity generators shall label all containers and tanks in a manner generally identifying their contents to employees and emergency personnel. The labels must contain an easily understood description of the waste.

(2) Small quantity generators shall ensure that there is available at all times at least one employee responsible for coordinating all emergency response measures provided in subitem (5). This employee, identified as the emergency coordinator, must be either on the generator's premises or available to respond to an emergency by reaching the premises within a short period of time.

(3) Small quantity generators shall post the following information next to the telephone on the premises: the name and telephone number of the emergency coordinator; the location of fire extinguishers and spill control material, and, if present, the fire alarm; and the telephone number of the fire department, unless there is a direct alarm.

(4) Small quantity generators must ensure and document that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

(5) The emergency coordinator or a designee must respond to any emergencies that arise. Appropriate responses include: in the event of a fire, call the fire department or try to extinguish the fire by using a fire extinguisher; in the event of a spill, contain the flow of hazardous waste to the extent possible and as soon as practicable, clean up the hazardous waste and any contaminated materials or soils; in the event of a fire, explosion, or other release that could threaten human health outside the premises or when the generator has knowledge that a spill has reached surface water, the generator must immediately comply with part 7045.0275, subparts 2 and 3 and notify the National Response Center using their 24-hour toll-free number (800) 424-8802 and provide the name, address, identification number of the generator, date, time, type of incident, and the estimated quantity and disposition of any recovered materials.

(6) If waste generated by a small quantity generator is transported using an alternate manifest for waste transport as provided in part 7045.0075, subpart 5, the small quantity generator shall maintain a copy of the reclamation and transport agreement during the term of the agreement and for a period of at least three years after termination or expiration of the agreement.

(7) For each shipment of waste using an alternate manifest for waste transport as provided in part 7045.0075, subpart 5, the small quantity generator shall submit a completed copy of that alternate manifest to the director within five working days of the transporter's acceptance of the waste shipment.

~~G.~~ (8) The small quantity generator shall either treat or dispose of the hazardous waste in an on-site facility or ensure delivery to an off-site storage, treatment, or disposal facility. The facility used must be: (1) permitted to accept hazardous waste under the agency's permitting procedures; or (2) in interim status under parts 7045.0552 to 7045.0642; or (3) authorized to manage hazardous waste by the Environmental Protection Agency or by a state with a hazardous waste management program authorized by the Environmental Protection Agency; or (4) a facility which in accordance with part 7045.0125 beneficially uses or reuses, or legitimately recycles, or reclaims the waste or treats the waste prior to beneficial use or reuse, or legitimate recycling or reclamation; ~~or.~~

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

(5) another site belonging to the same owner for consolidation of shipments providing the receiving site complies with parts 7045.0205 to 7045.1030 and the waste is ultimately managed according to subitems (1) to (4);

H. Transport hazardous waste in accordance with all applicable requirements of Minnesota Statutes, section 221.033 and Code of Federal Regulations, title 49, parts 171 to 179 (1983);

I. part 7045.0626, subparts 2, 3, and 4; and

J. each container is marked with the words "Hazardous Waste."

C. A contingency plan meeting the requirements of part 7045.0466 may be used to fulfill the requirements of item B, subitems (2) to (5).

Subp. 6. [Unchanged.]

7045.0261 MANIFEST DOCUMENT; GENERAL REQUIREMENTS.

Subpart 1. [Unchanged.]

Subp. 2. **Designation of facility.** A generator must designate on the manifest either one facility which is permitted to handle the waste described on the manifest or one facility which in accordance with part 7045.0125 beneficially uses or reuses, or legitimately recycles, or reclaims the waste or treats the waste ~~prior to~~ before beneficial use or reuse, or legitimate recycling or reclamation. ~~A small quantity generator may, in the alternative, designate another site belonging to the same owner for consolidation of shipments providing the receiving site complies with parts 7045.0205 to 7045.1030.~~

Subp. 3. to 10. [Unchanged.]

7045.0292 ACCUMULATION OF HAZARDOUS WASTE.

Subpart 1. **When allowed without a permit.** A generator may accumulate hazardous waste on-site ~~or hazardous waste received from off-site pursuant to part 7045.0219, subpart 5, item G, subitem (5)~~ without a permit or without having interim status if:

A. to H. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

7045.0381 USE OF MANIFEST.

Subpart 1. to 4. [Unchanged.]

Subp. 5. Use of an alternate manifest. Transporters who transport hazardous waste accompanied by an alternate manifest as provided in part 7045.0075, subpart 5 must:

A. for each shipment, record on a log or shipping paper the name, address, and United States Environmental Protection Agency identification number of the waste generator, the quantity of waste accepted, all United States Department of Transportation shipping information, and the date the waste was accepted;

B. carry the information required in item A when transporting waste to the reclamation facility; and

C. maintain a copy of the information required in item A and the reclamation agreement during the term of the agreement and for three years after termination or expiration of the agreement.

ADOPTED RULES

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

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

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

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

Department of Human Services

Adopted Permanent Rules Relating to Administration of the Medical Assistance Prepaid Demonstration Project in Minnesota

The rules proposed and published at *State Register*, Volume 11, Number 2, pages 35-43, July 14, 1986 (11 S.R. 35) are adopted with the following modifications:

Rules as Adopted

9500.1451 DEFINITIONS.

Subp. 5. ~~Case management.~~ "Case management" means a method of providing health care in which one individual or organization or an interdisciplinary team coordinates the provision of health care services to a consumer.

Subp. 6. ~~Commissioner.~~ "Commissioner" means the commissioner of human services or the commissioner's designated representative.

Subp. 7. ~~Consumer.~~ "Consumer" means a medical assistance recipient who is participating in MAPDP.

Subp. 8 ~~6.~~ ~~Department.~~ "Department" means the Department of Human Services.

Subp. 9 ~~7.~~ ~~Enrollee.~~ "Enrollee" means a consumer who has is enrolled in a medicaid health plan.

Subp. 10. ~~Health maintenance organization or HMO.~~ "Health maintenance organization" or "HMO" means a nonprofit corporation or local government unit controlled and operated under Minnesota Statutes, chapter 62D.

Subp. 11 ~~8.~~ ~~Health services.~~ "Health services" means the services and supplies given to a recipient by a provider for a health related purpose under Minnesota Statutes, section 256B.02, subdivision 8.

Subp. 12 ~~9.~~ ~~Insolvency.~~ "Insolvency" means the condition in which a medicaid health plan is financially unable to meet the financial and health care service delivery obligations in the contract between the department and the medicaid health plan.

Subp. 13 ~~10.~~ ~~Local agency.~~ "Local agency" means a county or multicounty agency that is authorized under Minnesota Statutes, sections 393.01, subdivision 7 and 393.07, subdivision 2, as the agency responsible for determining recipient eligibility for the medical assistance program.

Subp. 14 ~~11.~~ ~~Medical Assistance Prepaid Demonstration Project or MAPDP.~~ "Medical Assistance Prepaid Demonstration Project" or "MAPDP" means the medical assistance prepaid demonstration project established by Minnesota Statutes, section 256B.69.

Subp. 15 ~~12.~~ ~~Medicaid health plan or MHP.~~ "Medicaid health plan" or "MHP" means the organization contracting with the department to provide to enrollees the medical assistance services in parts 9500.1450 to 9500.1464 in exchange for a prepaid capitation payment.

Subp. 16 ~~13.~~ ~~Medical assistance or MA.~~ "Medical assistance" or "MA" means the program established under title XIX of the Social Security Act and Minnesota Statutes, chapter 256B.

Subp. 17 ~~14.~~ ~~Medical assistance population or MA population.~~ "Medical assistance population" or "MA population" means an aged, blind, disabled, or Aid to Families with Dependent Children (AFDC) category of eligibility for the medical assistance program, the eligibility standards for which are in parts 9500.0780 to 9500.0860.

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

ADOPTED RULES

Subp. 18 - ~~Personal care attendant.~~ "Personal care attendant" means a provider of personal care services prescribed by a physician and supervised by a registered nurse and provided to a medical assistance recipient. A personal care attendant must not be a relative or family member of the medical assistance recipient.

Subp. 19 15. Provider. "Provider" means a person or entity providing health care services.

Subp. 20 16. Rate cell. "Rate cell" means a grouping of recipients by demographic characteristics, established by the department for use in determining capitation rates. Demographic characteristics include the recipient's age, sex, medicare status, basis of medical assistance eligibility, and county of residence, and whether the recipient is a resident of a long-term care facility.

Subp. 21 17. Recipient. "Recipient" means a person who has been determined by the local agency to be eligible for the medical assistance program.

Subp. 22 - ~~Title XIX state plan.~~ "Title XIX state plan" refers to the document submitted for approval to the United States Department of Health and Human Services, Health Care Financing Administration defining the conditions of medical assistance program eligibility and services authorized by title XIX of the Social Security Act of 1965 and Minnesota Statutes, chapter 256B.

Subp. 23 18. Total capitation payments. "Total capitation payments" means the sum of all capitation payments made to the medicaid health plan by the department during a contract year.

9500.1452 ELIGIBILITY TO ENROLL IN MEDICAID HEALTH PLAN.

Only persons who have been determined eligible for medical assistance under parts 9500.0750 to 9500.1060 shall be eligible to participate in the medical assistance prepaid demonstration project.

"Personal care assistant" means a provider of personal care services prescribed by a physician and supervised by a registered nurse and provided to a medical assistance recipient. A personal care assistant must not be a relative or a family member of the medical assistance recipient. "Rate cell year" means the period beginning with the consumer's case open date or effective date of enrollment in the MHP, whichever is earlier, and ending one year from the consumer's case open date.

"State institution" means all regional treatment centers, as defined in Minnesota Statutes, section 245.0312; and state operated nursing homes Ah-gwah-ching and Oak Terrace.

A person who belongs to a category listed in items A to E D is ineligible to enroll in a medicaid health plan under the medical assistance prepaid demonstration project:

A. a person who is eligible for medical assistance with a six-month spend-down under part 9500.0810;

B. a person who is currently receiving the services of a personal care ~~attendant~~ assistant, or MAPDP enrollees who at the end of their rate cell year are using the services of one or more personal care assistants;

C. a person who is a resident of a state institution; or

D. a person who is a refugee and is receiving benefits under the Refugee Assistance Program, established at United States Code, title 8, section 1522(e); ~~or~~

E. ~~other persons whose participation has been determined by the department to be administratively difficult or not cost effective.~~

9500.1453 MANDATORY PARTICIPATION; FREE CHOICE OF MEDICAID HEALTH PLAN.

The department shall select recipients to participate as consumers in the medical assistance demonstration project and notify the recipients, in writing, of the ~~medicaid health plan~~ MHP choices available to them. A recipient who is selected as a consumer must participate in a ~~medicaid health plan to receive medically necessary health services, but~~ MHP. The recipient shall have the right to select the ~~medicaid health plan~~ MHP of his or her choice. No reimbursement from the Medical Assistance Program shall be made for health services received by a recipient enrolled in a MHP that are not payable through the MHP. Consumers shall be given no less than ten days after receiving written notification from the department to notify the department of their health plan choice. However, if the department is not notified of the ~~recipient's~~ consumer's choice within 30 days after the date of the department's written notice, the department shall assign the ~~recipient~~ consumer to a ~~medicaid health plan~~ MHP. The department shall notify the recipient in writing of the effective date of his or her enrollment, and the MHP in which the recipient will be enrolled. This notice must be given to the recipient before the effective date of enrollment.

A consumer shall be enrolled in a ~~medicaid health plan~~ MHP for one year from the date of enrollment but shall have the right to change to another ~~medicaid health plan~~ MHP once within the first 60 days of enrollment ~~with the medicaid health plan in~~ MAPDP. A consumer shall have the right to change to another ~~medicaid health plan~~ MHP during the annual 30-day period of open enrollment. The department shall notify consumers of the opportunity to change ~~medicaid health plans to another~~ MHP annually, at least 30 days before the start of the annual open enrollment period.

An enrollee may change to another MHP between enrollment periods on demonstrating to the state grievance panel that the enrollee:

A. requires substantially more travel time than is normally required by non-MAPDP participants in the same geographic area to travel to receive medical services;

B. has not received satisfactory services from the MHP; or

C. has other good cause for changing to another MHP.

9500.1454 RECORDS.

A ~~medicaid health plan~~ MHP shall maintain fiscal and medical records as required in part 9500.0930. A local agency shall comply with parts 9500.0920 and 9500.0930 and maintain a list showing the enrollment choices of recipients who participate in the medical assistance prepaid demonstration project.

9500.1455 THIRD-PARTY LIABILITY.

A local agency and a ~~medicaid health plan~~ MHP shall comply with part 9505.0211 [Emergency] in regard to third party payer liability.

9500.1456 IDENTIFICATION OF ENROLLEES.

A ~~medicaid health plan~~ MHP shall identify enrollees in a way convenient to its normal operational procedures.

9500.1457 SERVICES COVERED BY MAPDP.

Subp. 2. **Additional services.** A ~~medicaid health plan~~ MHP may provide services in addition to those available under the medical assistance program.

Subp. 3. **Prior authorization of services.** A ~~medicaid health plan~~ MHP shall be exempt from the requirements of Minnesota Statutes, chapter 256B, parts 9500.0750 to 9500.1080 and 9505.5000 to 9505.5030, that require prior authorization before providing health services to an enrollee.

9500.1458 DATA PRIVACY.

Under Minnesota Statutes, section 13.46, subdivisions 1 and 2, a ~~medicaid health plan~~ MHP under contract with the department is considered an agent of the department and shall have access to information on enrollees to the extent necessary to carry out its responsibilities under the contract. The ~~medicaid health plan~~ MHP must comply with Minnesota Statutes, chapter 13, the Minnesota Government Data Practices Act.

9500.1459 CAPITATION POLICIES.

Subpart 1. **Rates.** In demonstration counties designated by the department under Minnesota Statutes, section 256B.69, medical assistance payments for services included in the MAPDP will be made according to the contract between the ~~medicaid health plan~~ MHP and the department. Capitation rates must be developed on an historical cost basis. Base rates must be determined by calculating an average per capita cost for each rate cell by county of participation. If rate cell population in a county is insufficient to support a statistically valid sample size, the average per capita cost for that rate cell shall be determined from statistics from the metropolitan area, consisting of Hennepin, Ramsey, Anoka, Scott, Carver, Dakota, and Washington counties, or from a group of contiguous or demographically similar rural counties. The actual rate offered under the contract must be a specified percentage of the county average per capita cost.

The historical cost basis of the rates must be from a ~~specified~~ fiscal year 1982 for Itasca and Hennepin counties, and fiscal year 1983 for Dakota county, adjusted forward to the implementation year. This adjustment must not exceed the per capita cost increase based on department projections, taking into account changes in legislation, title XIX state plan, and rules affecting the medical assistance program. “Title XIX state plan” refers to the document submitted for approval to the United States Department of Health and Human Services, Health Care Financing Administration, defining the conditions of medical assistance program eligibility and services authorized by title XIX of the Social Security Act of 1965 and Minnesota Statutes, chapter 256B.

Rates must be adjusted on a state fiscal year basis, July 1 to June 30. The adjusted rates shall be effective on January 1 of the next state fiscal year. Rate cells shall also be adjusted to reflect differences in health status if analysis of historical costs and available survey data indicates that this adjustment is feasible.

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

ADOPTED RULES

Subp. 2. **Risk sharing arrangements.** In addition to the capitation rate, the department shall provide the two types of risk-sharing in subparts 3 and 4.

Subp. 3. **Aggregate loss-sharing.** Under aggregate loss-sharing, the department and the ~~medicaid health plan~~ MHP shall share the loss if the allowable actual costs of serving enrollees exceed the aggregate payment provided through the capitation.

Loss-sharing expenses are expenses incurred by the ~~medicaid health plan~~ MHP for services rendered directly to enrollees. The ~~medicaid health plan~~ MHP shall submit claim data as specified by the department for these services. This data shall be used to calculate the ~~medicaid health plan's~~ MHP aggregate cost of serving its enrollees. If the ~~medicaid health plan's~~ MHP aggregate cost of serving its enrollees exceeds the aggregate amount received by the ~~medicaid health plan~~ MHP in capitation rates revenues, the ~~medicaid health plan~~ MHP is eligible for aggregate loss-sharing.

Aggregate loss-sharing shall be implemented as specified in items A and B, unless otherwise specified in the contract between the department and the ~~medicaid health plan~~ MHP.

A. The following provisions apply only to the total capitation payments made to the ~~medicaid health plan~~ MHP for AFDC enrollees:

(1) For the contract period ending December 31, 1986, the department shall pay to the ~~medicaid health plan~~ MHP 50 percent of the actual costs of the ~~medicaid health plan~~ MHP that exceed the total capitation payments to the ~~medicaid health plan~~ MHP but that are equal to or less than 110 percent of the costs on which the department based the capitation rates.

(2) For the contract period ending December 31, 1987, the department shall pay to the ~~medicaid health plan~~ MHP 50 percent of the actual costs of the ~~medicaid health plan~~ MHP that exceed the total capitation payments to the ~~medicaid health plan~~ MHP but that are equal to or less than 100 percent of the costs on which the department based the capitation rates.

B. The following provisions apply only to the total capitation payments made to the ~~medicaid health plan~~ MHP for aged, blind, and disabled enrollees:

(1) For the contract period ending December 31, 1986, the department shall pay to the ~~medicaid health plan~~ MHP 50 percent of the actual costs of the ~~medicaid health plan~~ MHP that exceed the total capitation payments to the ~~medicaid health plan~~ MHP but that are equal to or less than 115 percent of the costs on which the department based the capitation rates.

(2) For the contract period ending December 31, 1987, the department shall pay to the ~~medicaid health plan~~ MHP 50 percent of the actual costs of the ~~medicaid health plan~~ MHP that exceed the total capitation payments to the ~~medicaid health plan~~ MHP but that are equal to or less than 105 percent of the costs on which the department based the capitation rates.

C. There shall be no aggregate loss-sharing available after December 31, 1987.

Subp. 4. **Individual stop-loss coverage.** Individual stop-loss coverage must be available for the duration of MAPDP. Stop-loss coverage is the amount the department will pay in excess of capitation rates described in items A and B.

A. Individual stop-loss coverage must be provided by the department for 80 percent of the following costs within a 12-month period unless otherwise specified in the contract between the department and the ~~medicaid health plan~~ MHP:

(1) inpatient hospital claims exceeding \$15,000 for an AFDC enrollee and \$30,000 for an aged, blind, or disabled enrollee; and

(2) over 90 days of long-term care facility services, as defined in part 9500.1070, subpart 3, or in-home care provided as an alternative to long-term care facility services.

Only ~~charges~~ costs that would be allowable medical assistance charges are eligible for individual stop-loss coverage.

B. ~~Medicaid health plans~~ MHPs may choose not to take part in the department's individual stop-loss coverage. ~~Medicaid health plans~~ MHPs not participating in the individual stop-loss coverage must submit to the department evidence that:

(1) the plan has an adequate financial reserve separate from operating funds to cover catastrophic liabilities;

(2) not more than 30 percent of the organization's operating budget is medical assistance related; and

(3) the ~~medicaid health plan~~ MHP waives the right of 90-day termination of contract and instead agrees to a 180-day termination notice period.

The capitation rate must be adjusted to include the cost of the department's individual stop-loss. Additional costs of buying private reinsurance must not be covered in the capitation nor be eligible expenses for aggregate loss-sharing as described in subpart 3.

9500.1460 ADDITIONAL REQUIREMENTS.

Subpart 1. ~~Medicaid health plan~~ MHP requirements. An organization that seeks to participate as a ~~medicaid health plan~~ MHP under the medical assistance prepaid demonstration project shall meet the criteria in subparts 2 to ~~19~~ 16.

Subp. 2. **Medical assistance populations covered.** A medicaid health plan MHP may choose to serve all medical assistance populations or a single medical assistance population. If the medicaid health plan MHP chooses to serve a medical assistance population of AFDC or blind recipients, the medicaid health plan MHP must serve at least one other medical assistance population.

Subp. 3. **Services provided.** A medicaid health plan MHP shall provide or ensure its enrollees access to all health services eligible for medical assistance payment under part 9500.1070.

Subp. 4. **Prohibition against co-payments.** A medicaid health plan MHP shall not charge its enrollees for any health service eligible for medical assistance payment under part 9500.1070 or for a medically necessary health service that is provided as a substitute for a health service eligible for medical assistance payment.

Subp. 5. **Plan organization.** A medicaid health plan MHP may choose to organize itself as either a profit or not-for-profit organization.

Subp. 6. **Contractual arrangements.** A medicaid health plan MHP shall contract with providers as necessary to meet the health service needs of its enrollees. The medicaid health plan MHP shall verify these contracts to the department by providing written summary information before a contract can be entered into between the medicaid health plan MHP and the department.

Subp. 7. **Service capacity.** A medicaid health plan MHP shall accept, up to the limit of its enrollment capacity, all consumers who choose the medicaid health plan MHP, regardless of the consumers' health conditions, if the consumers are from the medical assistance category or categories and the geographic area or areas specified in the contract between the medicaid health plan MHP and the department.

Subp. 8. **Financial capacity.** A medicaid health plan MHP shall demonstrate its financial risk capacity through a reserve fund or other mechanism agreed upon by the providers within the medicaid health plan MHP in the contract with the department. A medicaid health plan MHP that is licensed as a health maintenance organization under Minnesota Statutes, chapter 62D, or a nonprofit health plan licensed under Minnesota Statutes, chapter 62C, is not required to demonstrate a financial risk capacity beyond the financial risk capacity required for health maintenance organization licensure to comply with the requirements of Minnesota Statutes, chapter 62C or 62D.

Subp. 9. **Insolvency.** A medicaid health plan MHP must have a plan approved by the department for transferring its enrollees to other sources of health services if the medicaid health plan MHP becomes insolvent.

Subp. 10. **Limited number of contracts.** The department may limit the number of medicaid health plan MHP contracts in effect under MAPDP.

Subp. 11. **Liability for payment for unauthorized services.** Except for emergency health services under Minnesota Statutes, section 256B.02, subdivision 8, clause (4), a medicaid health plan MHP shall not be liable for payment for unauthorized health services rendered by a provider who is not part of the medicaid health plan MHP. The department is not liable for payment for health services rendered by a provider who is not part of the medicaid health plan MHP.

Subp. 12. **Termination of participation as a ~~medicaid health plan~~ MHP.** The department or a medicaid health plan MHP may terminate a contract upon 90 days' written notice to the other party unless the department and the medicaid health plan MHP have agreed to a different notice requirement in the contract and except as set forth at part 9500.1459, subpart 4, item C B, subitem (3). If a contract between the department and a medicaid health plan MHP is going to be terminated, the entity terminating the contract must notify the medicaid health plan's MHP's enrollees in writing at least 30 days before the termination.

Subp. 13. **Financial requirements placed on ~~medicaid health plan~~ MHP.** The medicaid health plan MHP shall accept the capitation rate and risk-sharing adjustments derived under part 9500.1459 as full payment for health services provided under the contract to enrollees. A medicaid health plan MHP under contract with the department shall be accountable to the department for the fiscal management of the health services it provides enrollees. The department shall be held harmless for the payment of obligations incurred by a medicaid health plan MHP if the medicaid health plan MHP or a provider contracted by the plan to provide health services to enrollees becomes insolvent and if the department has made the payments due the medicaid health plan MHP under part 9500.1459.

Subp. 14. **Required educational materials.** When contracting with the department, a medicaid health plan MHP must provide to the department educational materials to be given to the medical assistance population specified in the contract. The material should explain the services to be furnished to enrollees. No educational materials designed to solicit the enrollment of consumers shall be disseminated without the department's prior approval. A medicaid health plan MHP and the department may agree, as a

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

term of the contract, that a broker shall have the responsibility for developing and distributing the educational materials required in this subpart. If the contract specifies the use of a broker to develop and disseminate educational materials designed specifically for consumers, the broker must get the department's written approval of the educational materials before distributing them.

Subp. 15. **Required case management system.** "Case management" means a method of providing health care in which one individual or organization or an interdisciplinary team coordinates the provision of health care services to a consumer. A medicaid health plan MHP shall implement a system of case management providing the enrollee an individual needs assessment, development and implementation of an individual plan of care for the enrollee, and evaluation, monitoring, and revision of an individual plan of care.

Subp. 16. **Required submission of information.** The contract between the department and the medicaid health plan MHP shall specify the information the medicaid health plan shall submit to the department and the Health Care Financing Administration, and the form in which the information shall be submitted. The information submitted must enable the department to make the calculations required under part 9500.1459 and to carry out the requirements of parts 9505.1750 to 9505.2150 and the Health Care Financing Administration. The medicaid health plan MHP shall record complaints from enrollees and consumers applying for enrollment, actions taken to resolve the complaints, and results of the actions. A medicaid health plan MHP shall make the required information available to the department annually, or at other times specified in the contract or, if the department requires additional information for the purposes in this subpart, within ten days of the date of the department's written request for the additional information.

9500.1461 REQUIRED QUALITY ASSURANCE SYSTEM.

~~A medicaid health plan shall develop and implement a quality assurance system for the appropriate delivery of health services to the medicaid health plan's enrollees. The quality assurance system must include the elements specified in the contract between the medicaid health plan and the department. The medicaid health plan must be using the quality assurance system when contracting with the department.~~

9500.1462 SECOND MEDICAL OPINION.

A medicaid health plan MHP must provide, at its expense, a second medical opinion within the medicaid health plan MHP when the department or the enrollee requests a second medical opinion.

9500.1463 GRIEVANCE PROCEDURES.

Subpart 1. **Internal grievance procedure.** A medicaid health plan MHP shall have, in writing, a grievance procedure for receiving and reviewing the complaints of consumers and enrollees. The procedure must be approved by the department. The MHP shall give each enrollee a written description of the MHP grievance procedure and the state grievance procedure. This written description must also explain an enrollee's right to a second medical opinion. The grievance procedure must include an informal review in which a determination is made within ten calendar days after the medicaid health plan MHP receives a verbal complaint and a formal procedure to hear written grievances. The formal procedure shall provide a hearing and a decision about the grievance within the time specified in the contract between the department and the medicaid health plan 30 days from the time the written grievance is received by the MHP.

~~The medicaid health plan shall give an enrollee a copy of the grievance procedure, written in a language that can be understood by the enrollee. The MHP shall provide the enrollee with written notice of the resolution of the grievance. This notice must state the enrollee's right to file a grievance with the state and provide appropriate information regarding the procedure for filing the grievance.~~

A medicaid health plan MHP that revises its grievance procedures must notify its enrollees of the revised procedure, in writing, at least two weeks before the revision is effective. A revision of a medicaid health plan's MHP grievance procedure must be submitted to and approved in writing by the department before its implementation. Within 30 days from the time the written grievance is received by the MHP, the MHP shall give the enrollee written notice of the resolution of the grievance. This written notice must inform the enrollee of the right to file a grievance with the state and explain how to file the grievance.

Subp. 2. **State grievance procedure; appeal of provider's delay or refusal to provide services.** An enrollee may appeal to the commissioner department if the medicaid health plan MHP delays or refuses to provide medically necessary services ~~and if the grievance procedures in subpart 1 have been exhausted.~~ The appeal shall be heard by a panel that includes health practitioners as specified in Minnesota Statutes, section 256B.69, subdivision 11. For enrollees residing in Hennepin county, the local agency may hold the grievance hearing on behalf of the department, using the same panel as appointed by the department. The MHP shall pay for nonemergency medically needed services if the enrollee is successful in the appeal. The hearing before the panel shall be conducted according to Code of Federal Regulations, title 42, sections 431.200 to 431.246. The panel's decision is a final agency action that may be appealed by the enrollee or the medicaid health plan under the contested case provisions of Minnesota Statutes, chapter 14.

REPEALER. Minnesota Rule Parts 9500.1450; 9500.1451; 9500.1452; 9500.1453; 9500.1454; 9500.1455; 9500.1456; 9500.1457;

9500.1458; 9500.1459; 9500.1460; ~~9500.1461~~; 9500.1462; 9500.1463; 9500.1464 are repealed effective December 31, 1988, unless otherwise extended by the legislature.

Minnesota Board of Pharmacy

Adopted Permanent Rules Relating to Controlled Substances

The rules proposed and published at *State Register*, Volume 11, Number 12, pages 535-539, September 22, 1986 (11 S.R. 535) are adopted as proposed.

Pollution Control Agency

Adopted Permanent Rules Relating to Waste Tire Dump Abatement

The rules proposed and published at *State Register*, Volume 11, Number 9, pages 383-389, September 1, 1986 (11 S.R. 383) are adopted with the following modifications:

Rules as Adopted

7035.8040 INADEQUATE RESPONSE TO A REQUEST FOR ABATEMENT ACTION.

Subpart 1. **Inadequate response.** The agency shall determine if a responsible tire collector has failed to make an adequate response to a request for abatement action. ~~The agency may find that response has been inadequate if~~ The following constitute grounds for the agency to find that a response has been inadequate:

Subp. 2. **Abatement order.** ~~If the agency determines a finding that a responsible tire collector has failed to make an adequate response to a request for abatement action, constitutes grounds for the agency may to issue a tire dump abatement order to the responsible tire collector. A~~ If the agency determines that agency abatement is required, the tire dump abatement order ~~may shall~~ provide for entering the property where the tire dump is located, taking the waste tires into public custody, and arranging for their processing and removal.

7035.8070 REIMBURSEMENT.

Subpart 1. **Scope.** The agency ~~may shall~~ reimburse a responsible tire collector for the cost of abating the tire dump according to the criteria and limits in this part and as set out in the stipulation agreement incorporating the abatement plan.

Subp. 4. **Reimbursement rate.** A reimbursement rate shall be established in the stipulation agreement incorporating the abatement plan. The director shall establish the reimbursement rate. The reimbursement rate shall be based on the most cost-effective means of abating the tire dump, considering all alternatives available to the responsible tire collector, and the amount of money available to the agency for tire dump abatement. In calculating the reimbursement rate for waste tires that do not exceed an 18-inch rim diameter, 35-inch outside diameter, and a 14-inch tire width, the director shall use the following formula to determine which abatement alternative is the most cost effective.

$$R = (M \times \$0.125) \qquad + \text{ or } - \text{ PC}$$

(transport cost) \qquad \qquad \qquad (processing cost)

Where R is the potential reimbursement rate in dollars per ton; M is the miles needed to transport the waste tires to the processing facility; the figure \$0.125 represents the cost of transporting a ton of waste tires one mile; and PC is the net dollar cost per ton to the responsible tire collector of processing these waste tires. If the responsible tire ~~collectors collector's~~ processing revenues exceed processing costs, ~~for example in other words,~~ there is no net cost but instead a net profit, the amount of revenue shall be subtracted from the transportation cost portion of the formula. PC ~~may shall~~ not exceed \$66 per ton.

The reimbursement rate for waste tires exceeding an 18-inch rim diameter, a 35-inch outside diameter, or a 14-inch tire width, shall be established by the director on a case-by-case basis. If the responsible tire collector seeks reimbursement for the cost of abating these waste tires, the responsible tire collector must submit information on the most cost-effective method of transporting

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

(if the waste tires are to be processed off-site) and processing these waste tires when submitting the information required in part 7035.8030, subpart 2, item H, and subpart 3, item G. The director will choose a reimbursement rate that reflects the most cost-effective method of transporting and processing these waste tires.

7035.8080 REIMBURSEMENT DISBURSEMENT.

Subp. 3. **Documentation.** The director may request the responsible tire collector to shall submit any to the director documentation the director ~~deems necessary~~ reasonably requires to enable the director to make the determinations in subpart 1.

OFFICIAL NOTICES

Pursuant to the provisions of Minnesota Statutes § 14.10, 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.

Board of Animal Health

Notice of Quarterly Board Meeting

A quarterly meeting of the Board of Animal Health has been scheduled for Friday, February 27, 1987, at the Board of Animal Health's office, 90 W. Plato Blvd., St. Paul, Minnesota 55107.

Information about this meeting may be obtained by calling the Board office at (612) 296-5000.

T. J. Hagerty, D.V.M.
Executive Secretary

Department of Commerce

Bulletin of Pending Applications Regarding the Reciprocal Interstate Banking Act, Minn. Stat. § 48.98, Subdivision 2, (2)

The following listing of applications are pending with the Commissioner of Commerce subject to criteria for approval as set out in Minn. Stat. § 48.93 and shall be disapproved if:

- (1) The financial condition of any acquiring person is such as might jeopardize the financial stability of the bank or prejudice the interests of the depositors of the bank;
- (2) The competence, experience, integrity of any acquiring person or if any of the proposed management personnel indicates that it would not be in the interest of the depositors of the bank, or in the interest of the public to permit the person to control the bank;
- (3) The acquisition will result in undue concentration of resources or substantial lessening of competition in this area; or
- (4) The application failed to adequately demonstrate that the acquisition proposal would bring net new funds into Minnesota.

In addition, the Commissioner has determined by rule that applicant must describe its plan of compliance in providing an acceptable level of development loans or developmental investments in the community affected.

Current list of Pending Applications:

- The Marine Corporation, 111 East Wisconsin Avenue, Milwaukee, Wisconsin, proposes to acquire control of the Community State Bank of Bloomington, 9633 Lyndale Avenue South, Bloomington, Minnesota 55420.

NOTICE

The Commissioner shall accept public comment on an application for a period of not less than 30 days from the date of the final publication in a newspaper of general circulation within the county in which the bank to be acquired or a proposed new bank is located; or 30 days after the date of the availability of the bulletin of Pending Applications which includes the listing of the acquisition.

Public Information

Copies of bulletins of pending applications prepared and updated with each new application filed with the Commissioner is available without charge to any person upon request by writing to Department of Commerce, Bulletin of Pending Applications, Reciprocal Interstate Banking Act, 500 Metro Square Building, Seventh and Robert Streets, St. Paul, Minnesota 55101.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce**Notice of Activation of the Minnesota Joint Underwriting Association to Insure Specified Classes of Business and Public Hearing**

Notice is hereby given that, pursuant to Minnesota Statutes, section 62I.21, the Minnesota Joint Underwriting Association (MJUA) and the Market Assistance Plan (MAP) are activated to provide assistance to the following classes of business unable to obtain insurance from private insurers through ordinary means.

1. cargo insurance for interstate transportation

The MJUA and MAP are activated to provide assistance to the above classes of business for a period of 180 days following publication of this notice. A public hearing will be held, for the purpose of determining whether activation should continue beyond 180 days, in the Large Hearing Room, Metro Square Building on February 24, 1987 at 9:00 a.m. and continuing until all interested persons and groups have had an opportunity to be heard. The hearing shall be governed by Minnesota Statutes Section 14.57-14.69 and by Minnesota Rules Parts 1400.5100-1400.8400, (1985). Questions regarding procedure may be directed to Administrative Law Judge Peter C. Erickson, Office of Administrative Hearings, 310 4th Avenue South, 4th Floor Summit Bank Building, telephone 612-341-7606. The authority for this proceeding is found in Chapter 455 Laws of Minnesota 1986 codified as Chapter 62I of Minnesota Statutes specifically sections 40 and 41 of Chapter 455 codified as Minnesota Statutes 62I.21 and 62I.22 (A copy of those sections follows this notice.)

Prior to the hearing a pre-hearing conference will be held at 1:30 p.m. on February 4, 1986 at the Office of Administrative Hearings, 4th Floor Summit Bank Building, 310 4th Avenue South, Minneapolis, MN 55415.

Chapter 455 Laws of Minnesota 1986 which created the Minnesota Joint Underwriting Association provides for temporary activation for 180 days by the Commissioner of Commerce. To extend the Minnesota Joint Underwriting Association's authority beyond the 180 day period a hearing must be held. Those classes of business for which the Minnesota Joint Underwriting Association was temporarily activated, by this notice and by previously published notices, must prove, at that hearing, that they meet the statutory requirements for coverage by the Minnesota Joint Underwriting Association.

Among those requirements are:

- (1) That members of those classes are unable to obtain insurance through ordinary means;
- (2) That the insurance being sought is required by statute ordinance, or otherwise required by law, and is necessary to earn a livelihood or conduct a business; and
- (3) That the classes of business serve a public purpose.

The classes of business specified in this notice and previously published notices must be shown to meet the statutory requirements or the Minnesota Joint Underwriting Association's authority to provide coverage to them will end after 180 days from the date the notice of activation was published in the *State Register*.

The Department strongly suggests that any persons affected by this hearing or otherwise interested in the proceedings familiarize themselves with the requirements of Chapter 455 and the contested case procedures prior to the hearing, that they take such other steps as are appropriate to protect their interests and that any questions they may have as to how to proceed or how to participate at the hearing be directed to the Administrative Law Judge prior to the hearing.

All interested or affected persons will have an opportunity to participate at the hearing. Questioning of agency representatives or witnesses, and of interested persons making oral statements will be allowed in the manner set forth in the Rules pertaining to contested cases (Minnesota Rules 1400.5100-1400.8400).

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.

OFFICIAL NOTICES

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.

Dated: 5 December 1986

Michael A. Hatch
Commissioner of Commerce

Housing Finance Agency

Notice of Public Hearing on Annual Policy Statement

The Minnesota Housing Finance Agency (Agency) will hold a public hearing pursuant to Section 103A(j)(5) of the Internal Revenue Code of 1954, as amended, on December 30, 1986, at 9:30 a.m. in the Agency's Board Room, 400 Sibley Street, Suite 300, St. Paul, Minnesota 55101-1998. The subject of this hearing is the annual policy statement as described in Section 103A(j)(5) of the Internal Revenue Code of 1954, as amended.

All persons interested will be given an opportunity to express their views. Persons desiring to speak at the hearing must so request in writing at least 24 hours before the hearing. Oral remarks by any person will be limited to ten minutes. A copy of the report can be obtained, either prior to or subsequent to the hearing, by submitting a written request to Mr. Monte Aaker, Minnesota Housing Finance Agency, 400 Sibley Street, Suite 300, St. Paul, Minnesota 55101-1998. The report is a statement of the policies with respect to housing, development, and low-income housing assistance, which the Agency is to follow in issuing qualified mortgage bonds and mortgage credit certificates in 1987.

James Solem
Executive Director

Department of Human Services Division of Community Social Services

Notice of Publication of Annual Title XX Intended Use Report—Block Grant for Social Services

Notice is hereby given that the Department of Human Services has developed the Title XX Intended Use Report—Block Grant for Social Services for the period of October 1, 1986 through September 30, 1987. The report was submitted to the Secretary of Health and Human Services as required by Public Law 97-35. This report provides a statewide summary of Title XX projected service expenditures. A copy of the report can be obtained from the:

Department of Human Services
Division of Community Social Services
Centennial Office Building, 4th Floor
St. Paul, MN 55155

Any comments on the plan should be submitted in writing to the above address.

Pollution Control Agency

Outside Opinions Sought Concerning Amendments to Minn. Rules Ch. 7045 Governing the Management of Hazardous Waste

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) is seeking information and opinions from sources outside the MPCA regarding possible amendments to the rules governing hazardous waste. Information and comments are being sought to aid in preparation of draft amendments.

In response to amendments to the U.S. Environmental Protection Agency (EPA) hazardous waste program, the MPCA is considering amendments to rules governing hazardous waste in the following areas:

1. Regulations pertaining to the storage of hazardous waste in tanks. The regulations promulgated by EPA on July 14, 1986 impose specific conditions for the evaluation of tank integrity, design and installation of tanks, containment and detection of released waste, operating requirements, closure and post-closure care of tank systems.

2. Regulations applying to the export of hazardous waste. Amendments to the federal regulations promulgated August 8, 1986, include provisions relating to hazardous waste exporters' use of manifests, reporting and record keeping and the exporting transporters' responsibilities.

3. Amendments to the lists of hazardous wastes. Amendments to the federal regulations promulgated October 24, 1986 add four wastes to the lists of hazardous wastes. These wastes are generated during the production and formulation of ethylenebisdithiocarbamic acid (EBDC) and its salts.

4. Corrections and modifications to the lists of hazardous wastes. Amendments to the federal regulations promulgated August 6, 1986 correct 57 existing entries in the lists of hazardous waste and add Chemical Abstracts Service registry numbers to all listings.

The MPCA requests information and comments concerning the subject matter of the proposed amendments. Written or oral information or comments will be accepted until January 19, 1987. Written statements should be addressed to:

Carol Nankivel
Minnesota Pollution Control Agency
Solid and Hazardous Waste Division
520 Lafayette Road
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours at 612/296-7260.

Department of Transportation

Petition of County of Hubbard for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of the County of Hubbard has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a resurfacing project on County State Aid Highway 11 from Trunk Highway 87 to Trunk Highway 34.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9914 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit design speeds of 33 MPH, 34 MPH and 36 MPH instead of the required speed of 40 MPH.

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

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

Dated: 16 December 1986

Leonard W. Levine
Commissioner of Transportation

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency must make reasonable effort to publicize the availability of any 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. Certain quasi-state agencies are exempted from some of the provisions of this statute.

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

Contracts and Requisitions Open for Bid

Call 296-6152 for Referral to Specific Buyers.

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Enhancement to System	Dec. 22, 1986	Human Services	St. Paul	55-000-95590
Mast Arms	Dec. 23, 1986	Transportation	St. Paul	79-000-72588
Cable Cord & Wire	Dec. 23, 1986	Transportation	St. Paul	79-000-72581
Aluminum Light Poles	Dec. 23, 1986	Transportation	St. Paul	79-000-72589
Printing Supplies	Dec. 23, 1986	Various	Various	Price-Contract
Hardness Tester	Dec. 23, 1986	State University	Mankato	26-071-16880
Computer Software	Dec. 23, 1986	Transportation	St. Paul	79-000-72418
Computer Software—Rebid	Dec. 23, 1986	Community College	Bloomington	27-156-10090
Cable Cord & Wire Electronics	Dec. 23, 1986	Administration—Info. Mgmt. Div.	St. Paul	02-410-51427
Gasoline & Diesel Fuel (Transport & Tankwagon Deliveries)	Dec. 24, 1986	Various	Various	Sch. 92-TW Rebid
All Terrain Vehicle	Dec. 26, 1986	Natural Resources	St. Paul	29-000-45186
Library Shelving & Installation	Dec. 26, 1986	Revenue	St. Paul	67-120-02512
Wall Extension—2:30 p.m. opening	Dec. 29, 1986	State University	St. Cloud	26-073-19196
Lumber Roofing & Siding Material	Dec. 29, 1986	Transportation	Carlton & Moose Lake	79-050-18483 Rebid
Labor & Material to Clean Asbestos Contaminated Area	Dec. 29, 1986	Transportation	St. Paul	79-000-71979
Furnish & Install Roof Panels	Dec. 29, 1986	State University	Mankato	26-071-17038
Voice Mail System	Dec. 29, 1986	Administration: Telecommunications	St. Paul	02-430-52212
Mobile Hot Food Serving Unit	Dec. 29, 1986	Correctional Facility	Oak Park Heights	78-630-07077
Fiber Optics Tower Meter	Dec. 29, 1986	State University	St. Cloud	26-073-19195 Rebid
Engineering Drafting Machine	Dec. 19, 1986	Transportation	Duluth	79-000-73511

Department of Administration Energy Conservation Division

Request for Proposals to Firms Interested in Third Party Financing for Energy Conservation Measures

The Department of Administration, Energy Conservation Division, solicits proposals to provide energy conservation measures in accordance with Minnesota Statutes, Section 16.B.16 (1984) which authorizes state agencies to obtain energy conserving equipment

and services on shared savings and guaranteed savings basis through contracts of greater than one year duration but not exceeding ten years.

Firms who wish to be considered for this project should request a copy of the rules for "Request for Proposal" and submit a proposal for Fergus Falls Regional Treatment Center based on the rules on or before 4:00 p.m. January 23, 1987, to Donald T. Johnson, Energy Conservation Division, Suite 110, Park Professional Building, 555 Park Street, St. Paul, MN 55103. (612-296-8204).

Suggested energy modifications include but are not limited to:

- 1) Energy management systems
- 2) Steam traps revisions
- 3) Temperature control systems
- 4) Other energy cost saving measures

A new refuse burning system is currently under construction and steam will be purchased by the regional treatment center for this facility.

SCOPE:

In a shared savings program, an energy service firm purchases, installs and services energy conserving measures at no capital cost to the state. In return, the state agrees to share with the firm a percentage of whatever energy cost savings result. In a guaranteed-savings program, the firm, likewise, provides energy conserving measures to the state. However, the firm warrants that the state will achieve a specific level of energy cost savings due to the energy conserving measures. As a pre-condition to including shared-savings and guaranteed-savings contracts with the state, the law requires a firm to collect certain data for the accurate determination of the state's anticipated energy cost savings. Collection of the data is accomplished through a detailed engineering audit comparable to the *Minnesota Maxi Audit*. The audit may be limited to specific building systems if the state and the firm mutually agree. By virtue of the audit, the firm is apprised of the size and type of buildings involved, the nature of energy consuming equipment, the patterns and types of fuel used, and other factors that may influence energy consumption. On the basis of the energy audit, the firm is required to determine the type of energy conserving measures which are needed to calculate the energy savings (BTU savings and energy cost savings) that such measures will generate for the state.

Department of Human Services St. Peter Regional Treatment Center

Request for Proposal for Medical Services

Notice is hereby given that the St. Peter Regional Treatment Center, Residential Facilities Administration, Department of Human Services, is seeking the following services which are to be performed as requested by the Administration of the St. Peter Regional Treatment Center. The contract will be written for the period February 1, 1987 through June 30, 1987.

Services of a psychiatrist to serve the needs of the mentally ill and dangerous. Estimated amount of the contract is \$17,850.00.

Responses must be received by January 9, 1987. Direct inquiries to:

Tom Bolstad
St. Peter Regional Treatment Center
100 Freeman Drive
St. Peter, MN 56082
Phone: 507 931-7116

Department of Public Safety State Patrol Division

Request for Proposals for DWI/Vehicle Stopping/Emergency Vehicle Operation Training

The Minnesota State Patrol is seeking a training institution to conduct a one-week (40-hour) "DWI/Vehicle Stopping/Emergency Vehicle Operation" Course for state and local agency police officers.

This course will provide instruction relative to the application of DWI/Implied Consent law and procedures regarding the detection,

STATE CONTRACTS

apprehension, and prosecution of the alcohol/drug impaired driver, instruction in vehicle stopping techniques and emergency vehicle operation.

Course content will include, but not be limited to, DWI detection cues, Legal aspects of DWI and Implied Consent, Psychophysical testing including Gaze Nystagmus, Constitutional issues of DWI roadblocks, DWI case preparation and court testimony, Minnesota DWI/Implied Consent case law, Stopping and approaching the violator, Misdemeanor, Investigatory and Felony stops, Emergency vehicle operation, General policies of hot pursuit, Roadblocks, and Emergency Vehicle operation liability issues.

This project will be presented at a location provided by the State Patrol and under contract. It is outlined in the Request for Proposal (RFP) "DWI/Vehicle Stopping/Emergency Vehicle Operation Course". The formal RFP may be obtained by calling or writing:

Captain C. D. Swanson
Director of Training
Minnesota State Patrol
1900 West County Road I
New Brighton, Minnesota 55126
Telephone: (612) 636-4990

The ceiling price for this course is \$7,500. The deadline for submission of proposals is 4:30 P.M., January 31, 1987.

Department of Public Safety State Patrol Division

Request for Proposals for Police Staff and Command Training

The Minnesota State Patrol is seeking a training institution to conduct a two-week (80-hour) "Police Staff and Command" Course for state and local agency police personnel holding middle management, executive level, or first-line supervisory positions.

The course will address the necessary Staff and Command knowledge, skills, and techniques to effectively perform such functions within their respective police agencies.

Course content will include, but not be limited to, Leadership, Organization, Inspections, Policy Development and Implementation, Allocation of Resources, Planning, Decision Making, and Line/Staff Concepts.

This project will be presented at a location provided by the State Patrol and under contract. It is outlined in the Request for Proposal (RFP) "Police Staff and Command". The formal RFP may be obtained by calling or writing:

Captain C. D. Swanson
Director of Training
Minnesota State Patrol
1900 West County Road I
New Brighton, Minnesota 55126
Telephone: (612) 636-4990

The ceiling price for this course is \$11,000. The deadline for submission of proposals is 4:30 P.M., February 20, 1987.

Department of Public Safety State Patrol Division

Notice of Request for Proposals for Police Supervisory Training

The Minnesota State Patrol is seeking a training institution to conduct a one-week (40-hour) "Basic Police Supervision Training" Course for state and local agency police officers. This course will be conducted in March, 1987, and again in September, 1987.

These courses will address those basic first line supervision issues necessary to establish an effective and productive supervisory subordinate relationship.

Course content will include, but not be limited to, Fundamentals of Organization, Supervisor-Subordinate Relations, Development of Human Resources, Leadership Principles, and Effective Communications.

SUPREME COURT CALENDAR

This project will be presented at a location provided by the State Patrol and under contract. It is outlined in the Request for Proposal (RFP) "Basic Police Supervision". The formal RFP may be obtained by calling or writing:

Captain C. D. Swanson
Director of Training
Minnesota State Patrol
1900 West County Road I
New Brighton, Minnesota 55126
Telephone: (612) 636-4990

The ceiling price for each course is \$7,500. The deadline for submission of proposals is 4:30 P.M., January 23, 1987, for the March course and June 12, 1987, for the September course. One proposal covering both courses is acceptable if specified as such.

NON-STATE PUBLIC CONTRACTS

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

Metropolitan Council of the Twin Cities Area

Ad for Consultant Contract for System Programming Support for 1987

The Metropolitan Council, Suite 300 Metro Square Bldg, St. Paul, MN, 55101, will be releasing a Request for Proposal (RFP) for consultant services for computer systems programming support on December 23, 1986. This RFP has a budget limit of \$20,000 and the work will be performed during the year of 1987 on an as-needed basis as determined by the Council. Services requested are updating and support of the VM/SP operating system and application software including SAS, VM Software products, Syncsort, Oracle data base system and XICS and EPIC electronic publishing software running on an IBM 4361 model 5 system. Other services will also be required for installation of a pilot IBM token ring PC network and for performance tuning and capacity planning for future hardware upgrades. Proposals must be submitted to the Council on or before January 12, 1987 at 10:30 AM. Information can be obtained by contacting Clayton Erickson at 291-6441.

THIS AD WILL BE INCLUDED IN THE *STATE REGISTER* ON DEC 22 AND OTHER NEWSPAPERS SUCH AS THE *DISPATCH*, *TRIBUNE* AND *MINORITY PAPERS* ON DEC 19.

SUPREME COURT CALENDAR

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. This listing has been compiled by the Minnesota State Law Library for informational purposes only. Cases may be rescheduled by the Court subsequent to publication in the *State Register*. Questions concerning dates, locations, cases, etc., should be directed to: Clerk of the Appellate Courts, Room 230 State Capitol, St. Paul, MN 55155 612-296-2581.

Cases Scheduled for January 1987

Compiled by Charles A. Beckjord, (612) 297-4050.

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. This listing has been compiled by Charles A. Beckjord of the Minnesota State Law Library for informational purposes only. Cases may be rescheduled

SUPREME COURT CALENDAR

by the Court subsequent to publication in the *State Register*. Questions concerning the time and location of hearings should be directed to: Clerk of the Appellate Courts, Room 230 State Capitol, St. Paul, MN 55155 (612) 296-2581.

Monday 5 January 1987

C4-85-2000

Glenn Bulau, et al,
Respondents,

vs.

Hector Plumbing and Heating
Company, defendant and third
party plaintiff,

Respondent,

vs.

20th Century Building Center,
Inc., third party defendant,
petitioner,

Appellant,

Marvin Degner, d.b.a. Degner
Construction,

Third Party Defendant.

Maslon, Edelman, Borman &
Brand. Jeffrey W. Semple

Lee L. Labore & Associates,
LTD. Emilio R. Guiliani

Schmidt, Thompson, Thompson,
Johnson & Moody

Opinion Court of Appeals

Is a cause of action for contribution timely under Minnesota Statute Sec. 549.051 when the action for contribution is commenced within one year of the date the party seeking contribution has been sued?

Tuesday 6 January 1987

C9-86-1337, C6-86-1490

Cynthia C. Mech,
Appellant (C9-86-1337),
Respondent (C6-86-1490),

vs.

General Casualty Company of
Wisconsin,

Respondent (C9-86-1337),
Appellant (C6-86-1490),

Larry Schmidhuber, et al,
Respondents.

Henson & Efron
Joseph T. Dixon and Paul F.
Shoemaker

Cousineau, McGuire, Shaughnessy &
Anderson

Popham, Haik, Schnobrich, Kaufman
& Doty. John C. Childs and
Thomas C. Mielenhausen

Judgment Hennepin County

The legal issue involved in this case is whether the insurance policy at issue herein bars a direct action in Minnesota against General Casualty Company of Wisconsin by plaintiff/appellant Mech.

C1-86-456

Rodger K. Marklund,
Respondent,

vs.

Farm Bureau Mutual Insurance
Company, petitioner,

Appellant.

Shermoen, Leduc & Jaksa.
John D. Udem

Richard C. Molin

Opinion Court of Appeals

Did appellant's injuries, which occurred when he fell at a service station while in the process of paying for the gasoline he had put in his vehicle, arise out of the maintenance of a motor vehicle within the meaning of Minn. Stat. Sec. 65B.43, Subd. 3?

Whether it was abuse of discretion to deny defendant without notice, an opportunity to present oral argument on controlling legal issues that were raised for the first time in plaintiff's Reply Brief and thus were never addressed by defendant.

Wednesday 7 January 1987 9:00 AM**C7-86-445****Mark and Brian Schneider, d.b.a.
Schneider Farms,****Respondent,**

vs.

**Plainview Farmers Mutual Fire
Insurance Company, petitioner,
Appellant.****Dunlap, Keith, Finseth, Berndt &
Sandberg. Kenneth R. Moen****Willenbring, Lickteig & Dahl
Paul J. Wocken****Rochford, Thomas, & Beale.****Opinion Court of Appeals**

Whether a Township mutual fire Insurance Company's Notice of Cancellation which is mailed by certified mail to the insured but never actually received by the insured is effective legal notice of cancellation where the insured also has no actual notice of the attempted cancellation.

C0-86-1852**Norbert J. Moes,****Relator,**

vs.

**City of St. Paul, Self-Insured,
Respondent,**

and

**Blue Cross & Blue Shield of
Minnesota, intervenor,****Relator.****Horvei & Krueger.
David R. Vail****Edward P. Star and Thomas J.
Weyandt****Indru S. Advani****Order Worker's Compensation Court of Appeals**

Is an employee, who is a firefighter diagnosed with coronary arteriosclerosis, entitled to the presumption found in Minn. Stat. Sec. 176.011, Subd. 15?

Did the City of St. Paul rebut the coronary sclerosis presumption for firefighters by showing that Mr. Moes' disease was the result of recognized causative factors which are not related to his occupation?

Is an employee who contracts an occupational disease and is unable to continue at the work at which he was last employed disabled within the meaning of Minn. Stat. Sec. 176.066, Subd. 1?

Does the statutory presumption of 176.011, Subd. 15, violate the equal protection clause of the United States Constitution in that there is no legitimate basis for a distinction between firefighters and all other employees with respect to the causative factors in the formation of coronary sclerosis?

Thursday 8 January 1987 9:00 AM**C3-86-250****Beverly Dorn,****Respondent,**

vs.

**Liberty Mutual Fire Insurance
Company, petitioner,****Appellant.****Grose, Von Holtum, Sieben &
Schmidt****Lasley, Gaughan, Stich & Angell.
Michael S. Kreidler****Opinion Court of Appeals**

Does a policy of uninsured motorist coverage which provides for single limits of coverage, payable to the first claimant and thereby leaving no coverage available to the second claimant, conflict with the requirements of Minn. Stat. Sec. 65B.49, Subd. 4?

Did the declarations of the coverage sheet conflict with the policy, thereby creating an ambiguity to be construed against the insurer?

Whether an insurer which has exhausted its single limit coverage totaling \$120,000 in effecting a reasonable and provident settlement of one claim is obligated to provide uninsured motorist benefits to a second claimant injured in the same accident when the second claimant has failed to notify the insurer until approximately two years after the first settlement was completed?

Whether an insurer has allegedly failed to offer uninsured motorist coverage as required by statute is required to provide coverage in the amount provided by the statute or the amount specified in the policy.

SUPREME COURT CALENDAR

C0-85-2270

Hogs Unlimited, a general
partnership, et al,

Respondent,

vs.

Farm Bureau Mutual Insurance
Company, petitioner,

Appellant.

Klampe & Pingatore

Robins, Zelle, Larson, & Kaplan.
Terrence R. Joy and Patricia J.
St. Peter.

Opinion Court of Appeals

Whether innocent partners named as co-insureds on an insurance policy are entitled to coverage for a property loss caused by a malicious destruction by another partner?

Whether fraud or misconduct of one co-insured bars recovery by the innocent co-insureds of their pro-rata share of the loss?

Were there any genuine issue of material fact as to whether Cerise destroyed the hogs in the ordinary course of business or with the authority of the innocent partners? -

Did the Court of Appeals properly award prejudgment interest to the Respondents where the damages were readily ascertainable by reference to a market value?

Monday 12 January 1987 9:00 AM

C8-86-1846

Farmers & Merchants State Bank
of Pierz, et al,

Appellants,

v.

Bert Bosshart, et al,

Respondents,

Certified Question Morrison County

Rinke, Noonan, Grote & Smoley.
Gerald W. Von Korff

MacKall, Crouse & Moore.
Michael J. Dwyer

Is an insurance agent who knowingly violates the Minnesota Surplus Lines Act personally liable under the agent's liability law, (Minn. Stat. Sec. 60A, Subd. 12) when he sells insurance issued by a company not authorized to do business in this state?

Is the exemption from agent's liability for sales made "pursuant to the Surplus Lines Law" satisfied by a sale which materially violates the Surplus Lines Law?

C8-86-1846

In the Matter of the Application
for the Discipline of David E.
Henke, An Attorney at Law of the
State of Minnesota.
Petition for Disciplinary Action

William J. Wernz and Mart A.
Cole

David E. Henke

FIRST COUNT

Mr. Henke was placed on restricted status in 1981, which means that he has been authorized only to represent relatives by blood and marriage.

Mr. Henke has not been removed from restricted status. In 1985-86, he has represented at least four individuals for money in violation of his restricted status.

SECOND COUNT

David Henke arranged to represent a client on a DWI charge on February 27, 1986. Mr. Henke did not appear in court for his client in either the arraignment hearing or the trial. The client pled guilty. In a subsequent phone call, Mr. Henke promised to refund the retainer. Mr. Henke failed to refund any portion of the retainer.

THIRD COUNT

Mr. Henke arranged to represent a second client in a DWI case. He again failed to appear at the arraignment hearing, and again failed to repay the retainer. This client also was forced to plead guilty.

FOURTH COUNT

Mr. Henke agreed to represent a client in a marriage dissolution. Mr. Henke was generally unavailable to this client by phone. Mr. Henke also neglected certain paper work in regard to this client. The retainer was never refunded.

SUPREME COURT CALENDAR

FIFTH COUNT

Mr. Henke represented another client in a marital dissolution proceeding. He did acquire a TRO against this client's husband. Despite repeated requests, Mr. Henke never forwarded a copy of the order to this client. When Mr. Henke informed the client that he could no longer represent her, he promised to deliver her file to her, and never did. The retainer, again, was never refunded.

SIXTH COUNT

Mr. Henke was notified of charges of unprofessional conduct against him and of a pre-hearing meeting scheduled for 9:30 AM on July 24, 1986. The notice specifically informed respondent that failure to attend the meeting could be a separate grounds for discipline. He failed to appear at the meeting. Also, since he failed to appear at this hearing, he is deemed to have accepted the charges against him.

Tuesday 13 January 1987 9:00 AM

CX-86-1315

Jack C. Portlance,

Respondent,

vs.

Golden Valley State Bank,

Appellant.

Robins, Zelle, Larson & Kaplan.

Thomas B. Hatch

Dorsey & Whitney.

Roy A. Ginsburg and William B.

Dawson

Certified Question Hennepin County

Does the two-year limitations period of Minn. Stat. 541.07(5) or the six year limitations period of Minn. Stat. Sec. 541.05, Subd. 1(1), govern in a *Pine River* wrongful discharge case?

C6-85-2340

William Becker,

Respondent,

vs.

Alloy Hardfacing & Engineering

Company, et al, petitioners,

Appellants.

Grundhoefer & Neuville

Stuurmans & Karan

Opinion Court of Appeals

Whether the trial court erred in instructing the jury that the burden of proof upon respondent to prove entitlement to punitive damages was a fair preponderance of the evidence, as opposed to clear and convincing evidence.

Whether the trial court erred in denying appellant's proposed jury instructions regarding conditional privilege and malice with respect both to the police report and the letter to respondent's subsequent employer.

Whether the trial court erred in instructing the jury by not adequately defining general damages.

Whether the lower court erred in receiving outrageously inflammatory irrelevant testimony over timely objection.

Whether the trial court erred in denying appellant's motion for a jury or a new trial on the grounds that the findings were not supported by the evidence, and that the damages were excessive.

Is respondent entitled to attorney's fees incurred in defending himself against frivolous counterclaims of business slander?

Is respondent entitled to wage penalties under Minn. Stat. Sec. 181.13?

Wednesday 14 January 1987 9:00 AM

C8-85-2212

Orrin M. Haugen, et al,

Respondents,

Richard M. Smith,

Plaintiff,

vs.

Muriel V. Peterson, petitioner,

Appellant.

Steven D. Jamar

Smith, Juster, Feikema, Malmon &

Haskvitz

H. Gordon Taylor

Mark D. Nyvold

Mark W. Peterson

Opinion Court of Appeals

SUPREME COURT CALENDAR

Were the restrictive covenants in Appellant's 1949 deed automatically terminated in 1979 by operation of Minn. Stat. Sec. 500.20, Subd. 2, which provided that all covenants, conditions or restrictions shall cease to be valid and operate thirty years after the date of the deed creating them?

Did the renewal provision in the Indian Hills covenants become operative nine years early to avoid the effect of Minn. Stat. Sec. 500.20, Subd. 2.?

By their consent to and support for Mrs. Peterson's subdivision and her building plans, did the respondents waive their right to object and are they estopped from challenging her right to build?

Did the repeal of Minn. Stat. Sec. 500.10, Subd. 2 (1980), repealed 1982 Minn. Laws ch 500 sec. 5, remove an obstruction to enforcement of restrictive covenants where the party against whom enforcement is sought knowingly acquired the property subject to the restrictive covenants while they were in force even under Minn. Stat. Sec. 500.20, Subd. 2?

C9-86-950

**In the Matter of the Application
for the Discipline of Anthony A.
Danna, an Attorney at Law of the
State of Minnesota**

**William J. Wernz
Thomas C. Vasaly**

Douglas W. Thompson

What discipline is appropriate for an attorney who forges his client's signature on two affidavits, falsely notarizes the affidavits, files them in court, conceals the false signatures from his client and gives false testimony in the disciplinary investigation to cover up this misconduct.

Whether the sanctions recommended by the court-appointed referee are appropriate under the circumstances where respondent admitted misconduct, no harm was caused to the client, no gain was realized by the lawyer and referee recommended a \$2,000 fine, assessing respondent the costs of the proceedings and suspending him from practice for two years unless he agreed to probation with specified conditions.

SUPREME COURT DECISIONS

Decisions Filed Friday 12 December 1986

Compiled by Wayne O. Tschimperle, Clerk

C8-86-194 State of Minnesota, petitioner, Appellant v. Todd. Richard Benedict. Court of Appeals.

Trial court did not abuse its discretion in refusing to order post-trial *Schwartz* hearing to examine jurors concerning allegations by defendant that foreman gave false answer on *voir dire*.

Trial court did not abuse its discretion in excluding evidence offered by defendant to show that child sexually abused by defendant could have gained his unusual knowledge of sexual knowledge matters from source other than defendant, where potential of such evidence for creating unfair prejudice outweighed its limited probative value.

Reversed and judgment of conviction reinstated. Amdahl, C.J.

**C5-86-413 In the Matter of the Welfare of: D.D.S.
Court of Appeals**

Property is stolen "from the person" of another if the property is taken from the immediate presence and actual control of the person, even if the property is not actually on his person at the time of the taking.

Affirmed. Amdahl, C.J.

Orders

CX-83-912 In the Matter of the Application for the Discipline of Randall E. Kroening, an Attorney at Law of the State of Minnesota. Supreme Court.

Indefinitely suspended. Amdahl, C.J.

We want you to have our business — \$1 billion annually

Each year over \$1 billion in state contracts are awarded. About \$20 million in state contracts per week are advertised in the **State Register**, the most complete listing of state contracts available. Just a **sampling** of contracts include:

- consulting services
- commodities
- office equipment and supplies
- vehicles and accessories
- garbage and hazardous waste disposal services
- professional services
- construction and remodeling
- design, graphics and printing
- food services
- video equipment and services
- tools and scientific equipment
- technical services
- computer software
- computers
- mechanical and machine services and parts
- laundry and cleaning services

For 50¢ a day, the price of a **Wall Street Journal**, you can have delivered to your office the most effective and economical means of tracking state contracts. The smart way to stay in the know, and get the business of Minnesota state government, is with the **State Register**.

Come blizzard, tornado, flood or earthquake — you'll find important and valuable information for your business you won't find anywhere else. Every Monday, 52 times a year, the **State Register** not only publishes the most thorough listing of state contracts but also the only source of state agency rulemaking activity, plus important tax court decisions, official notices, executive orders of the governor, supreme court decisions, and a calendar of scheduled cases to which you can add your "friend of the court" questions.

Could you hire someone to bring all this information to you and your company for so little money? Let us bring you the business of state government. Subscribe to the **State Register** today, or call 296-4273 for more information.

An annual subscription is \$130 and a 13-week trial subscription is \$40. MasterCard/VISA orders can be taken over the phone, otherwise prepayment is required. Send your orders to the Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota 1-800-652-9747 and ask for "DOCUMENTS."

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

MAILING LISTS GALORE

Successful business means successful sales

The Minnesota Documents Division has a variety of mailing lists of licensed professionals and permit holders that will enable you to focus your marketing efforts on a targeted audience.

Types of lists available are: registered nurses, real estate agents, physicians, insurance agents, boatowners, hunters, cosmetologists, teachers, and many more! And you can get them on printouts, cheshire/pressure sensitive labels, as well as 9-track magnetic tapes.

What's more, you can choose from several selection capabilities. You will find our selections most helpful and beneficial to your business when you learn that you can acquire names and addresses of individuals in the areas you need to target most.

Find out more about our mailing lists by writing for our free mailing list catalog. In a hurry? Call (612) 297-2552 for more information. Requests can be sent to: Minnesota Documents Division, Mailing List Operation, 117 University Avenue, St. Paul, MN 55155.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

NEW Human Services Laws and Rules

Human Services Laws 1986

An extract from the statutes. Includes legislative amendments and additions from the most recent session. Code No. 2-56. \$20.00.

Human Services Rules

as in effect July 7, 1986

Rules governing assistance programs, eligibility grant amounts, AFDC and residence requirements. MN Rules Chapter 9500-9580. Code No. 3-95. \$24.95.

3 ring binder. 2" capacity. 1 required for each of above listed publications. Code No. 10-21. \$4.25.

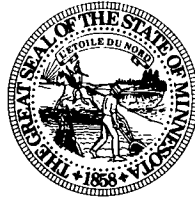


TO ORDER: Please include 6% sales tax and \$1.50 postage and handling. Prepayment required. Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000. VISA/MasterCard orders accepted. Please include daytime phone.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

1986 NOTARY PUBLIC LAWS

Statutory requirements regarding the oath of office, necessary bond, and taking of depositions. Includes an explanation of the term of office and procedures for removal from office. Code No. 2-13. \$4.00.



JANE SMITH

NOTARY PUBLIC-MINNESOTA

RAMSEY COUNTY

MY COMMISSION EXPIRES JANUARY 1, 1987

U. S. SMALL BUSINESS ADMINISTRATION PUBLICATIONS:

Insurance and Risk Management for Small Business
Small Business Finance
Starting and Managing a Small Business of Your Own

Code No. 16-50. \$5.00.

Code No. 16-42. \$4.50.

Code No. 16-40. \$4.75.

TO ORDER: Please include 6% sales tax and \$1.50 postage and handling. Prepayment required. Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000. VISA/MasterCard orders accepted. Please include daytime phone.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

Subscription Services

The Minnesota Documents Division offers several subscription services of activities, awards, decisions and special bulletins of various Minnesota state agencies.

Use the handy order form on the back of the *State Register* to order. Simply fill in the subscription code number, include your name, address and zip and your check made out to the State of Minnesota (PREPAYMENT IS REQUIRED) and send it in. We'll start your subscription as soon as we receive your order, or whenever you like.

Subscription	Cost	Code Number
Career Opportunity Bulletin, 1 year	\$ 20.00	90-3
Career Opportunity Bulletin, 6 mos.	\$ 15.00	90-4
Human Services Informational and Instructional Bulletin	\$100.00	90-6
Human Services Bulletin List	\$ 20.00	90-7
LRL (Legislative Reference Library) Checklist	\$ 75.00	90-8

Subscription	Cost	Code Number
PERB (Public Employee Relations Board) Awards	\$260.00	90-9
PERB (Public Employee Relations Board) Decisions	\$ 60.00	90-10
Minnesota Statutes Subscription Includes the complete 10-volume set of Minnesota Statutes 1986 and the 1987 Supplement	\$135.00	18-8
State Register, 1 year	\$130.00	90-1
State Register, 3 mos. trial Can be converted to a full subscription for \$90 at end of trial	\$ 40.00	90-2
Tax Court/Property Decisions	\$210.00	90-11
Workers Compensation Decisions, unpublished subs run Jan-Dec; can be prorated	\$320.00	90-12
Workers Compensation Decisions Vol. 38 (limited quantity)	\$ 89.50	
Vol. 39.	\$ 95.00	90-13

TO ORDER: Prepayment required to start your subscription. Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000 VISA/MasterCard orders accepted. Please include daytime phone.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

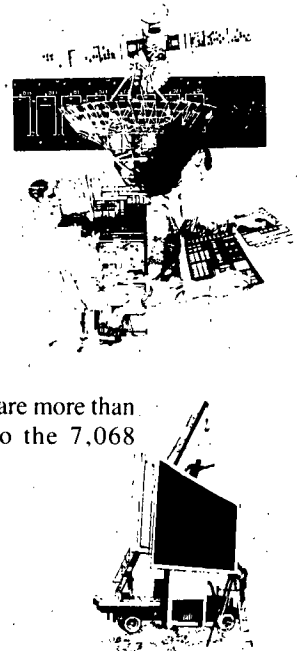
Minnesota Manufacturers' Directory 1986-87

NEW: In the directory this year are two titles (where applicable) Chief Engineer and Data Processing Manager.



UPDATED: Name, address, phone number, staff size, sales volume, market area, year of establishment, type of firm, C.E.O., Sales or Marketing Manager, Purchasing Manager and four major manufactured products. Code # 40-2, \$68.50.

REVISED: There are more than 7,000 changes to the 7,068 entries



TO ORDER: Please include 6% sales tax and \$1.50 postage and handling. Prepayment required. Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000. VISA/MasterCard orders accepted. Please include daytime phone.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

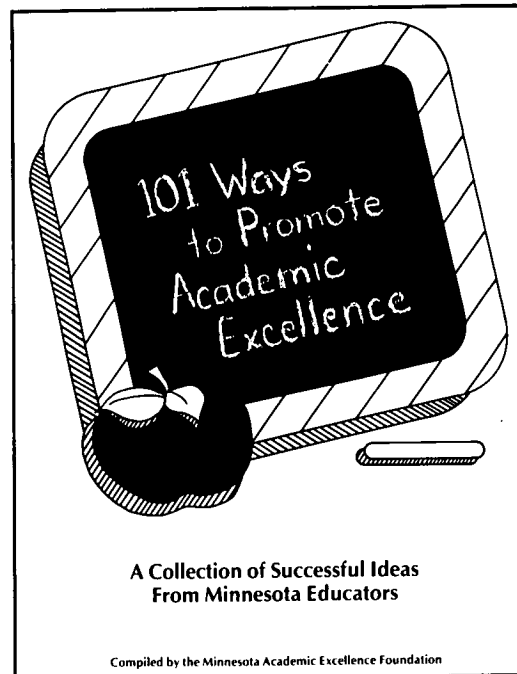
Minnesota: national leader in education

101 Ways to Promote Academic Excellence

A collection of nuts-and-bolts methods educators have successfully used to foster academic achievement. These are techniques that directly help students, can be replicated easily, are cost-effective, and that work in meeting public education's great challenge: helping every single child learn. Code #5-1, \$4.50.

Education Directory, 1986-87

This popular comprehensive directory contains Minnesota school districts, superintendents, principals, addresses, phone numbers and enrollment. 128 pages, paperbound. Code #1-93, \$5.00.

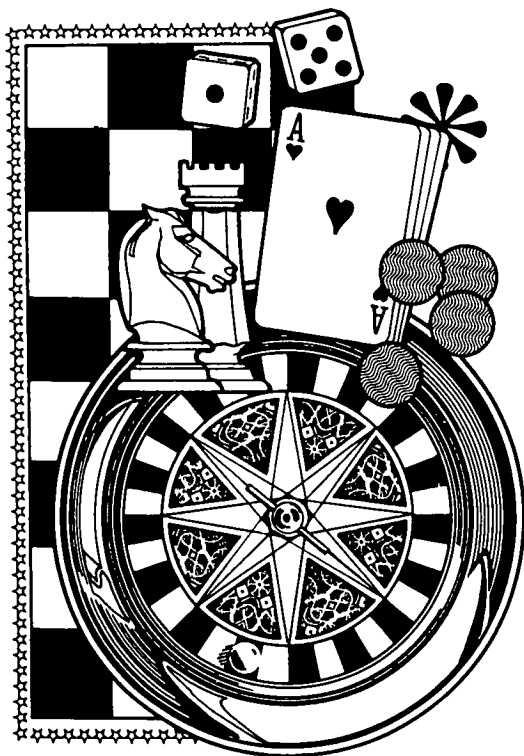


A Collection of Successful Ideas
From Minnesota Educators

Compiled by the Minnesota Academic Excellence Foundation

TO ORDER: Please include 6% sales tax and \$1.50 postage and handling. Prepayment required. Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "DOCUMENTS." VISA/MasterCard orders accepted over phone. Please include daytime phone.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.



Charitable Gambling Directory

A complete listing in alphabetical order of organizations licensed for charitable gambling in the state. Includes the name, address, zip code and name of contact person. 64 pages. Code # 1-11. \$20.00

SPECIAL NOTE: New Charitable Gambling Rules will be available this fall in booklet form. Governing those organizations that operate charitable gambling events, like bingo, this booklet soon to be available.

TO ORDER: Please include 6% sales tax and \$1.50 postage and handling. Prepayment required. Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000. VISA/MasterCard orders accepted. Please include daytime phone.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

DOCUMENTS DIVISION

Publications, Services, Subscriptions

Order Form on Back

For Information, Call 297-3000

SUBSCRIPTIONS:

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court Calendar, Supreme Court and Tax Court Decisions. Annual subscription \$130; Trial Subscription (13 weeks) \$40.00; Single copies \$3.50.

Workers Compensation Decisions. Volume 39. Selected landmark decisions of the Worker's Compensation Court of Appeals. Annual subscription, quarterly updates. \$95.00.

SERVICES:

Mailing Lists. Lists of Minnesota licensed professionals and permit holders. Write or call (612) 297-2552 for a free mailing list catalog which contains available lists, selections, formats, pricing and ordering information.

Minnesota's Seasons. Catalog of lake maps, fishing guides, bikeway maps, cookbooks, travel guides, and more. Free.

Minnesota State Documents Center 1986 Catalog. List of publications available through Minnesota Documents Center. Free.

State Register Binder. Durable 3½ inches, forest green binders imprinted with the *State Register* logo. \$6.50 plus 39¢ tax.

* These publications require no postage and handling fees

Favor your clients, family and friends with these holiday specials

North Country Cabin Cooking—More than 300 quick 'n easy sure-to-please recipes. Soups, salads, main dishes and more. Code No. 19-45. ~~\$8.95~~ \$8.05.

Ski Minnesota—A cross country skier's guide to Minnesota, Northern Wisconsin, and Michigan's Upper Peninsula. Code No. 19-68. ~~\$11.99~~ \$10.79.

Wild Rice—Star of the North—One hundred fifty recipes for a gourmet grain. Code No. 19-57. ~~\$12.95~~ \$11.65.

The Spirit of Winter Camping—A wilderness guide to cold weather camping. How to have fun safely. Code No. 19-67. ~~\$5.99~~ \$5.39.

Minnesota Heritage Cookbook II—Recipes and menu ideas for healthy living. 1,000 recipes. Code No. 19-58. ~~\$10.00~~ \$9.00.



TO ORDER: Use the handy order form on the back cover. Please include 6% sales tax and \$1.50 postage and handling. Prepayment required. Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000. VISA/MasterCard orders accepted over phone. Please include daytime phone.

Publication editors: As a public service, please reprint this ad in your publication, either as is, reduced, or redesigned to suit your format.

