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State of Minnesota

# STATE REGISTER

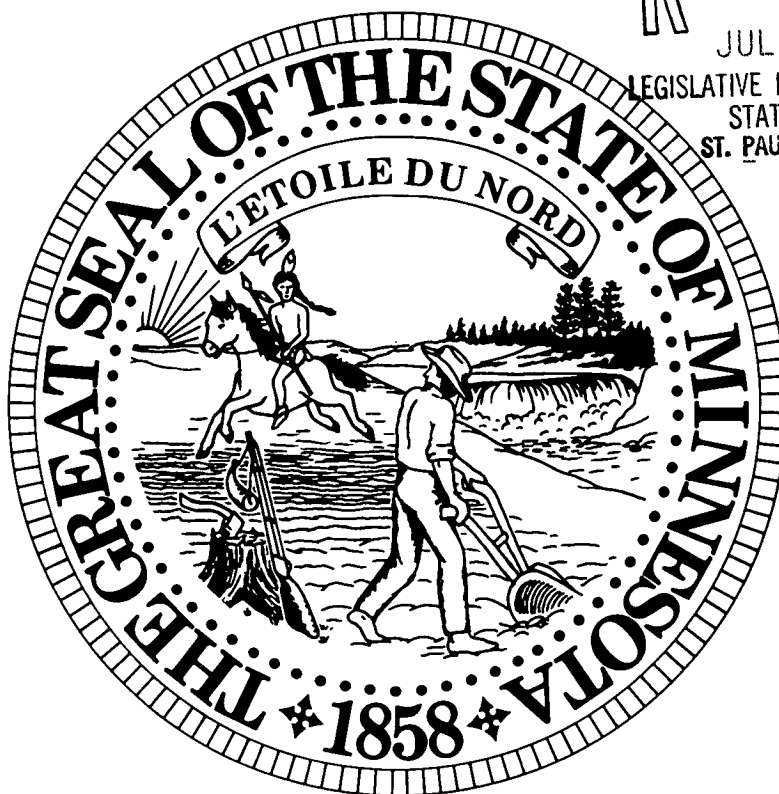
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27 July 1987

Volume 12, Number 4

Pages 129-184

# 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.

## Printing Schedule and Submission Deadlines

Vol. 12 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
4	Monday 13 July	Monday 20 July	Monday 27 July
5	Monday 20 July	Monday 27 July	Monday 3 August
6	Monday 27 July	Monday 3 August	Monday 10 August
7	Monday 3 August	Monday 10 August	Monday 17 August

\*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.

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# Proposed Rules

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

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

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

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

## Department of Human Services

### Proposed Permanent Rules Relating to Title IV-E Funding Allocation

#### Notice of Intent to Adopt a Rule Without a Hearing

Notice is hereby given that the State Department of Human Services 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 *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt these rules is *Minnesota Statutes*, sections 393.7, subdivision 1, 256.011, subdivision 1 and 256.01, subdivision 2(2).

All persons have 30 days or until 4:30 p.m. on August 26, 1987 in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the 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 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: Richard Harges, Minnesota Department of Human Services, 4th floor Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155; telephone (612) 296-2829.

The proposed rules 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 rules as noticed.

The purpose of these rules is to establish the methods to be used in allocating to counties the federal funds received by the Minnesota Department of Human Services for administrative and training costs incurred in providing social services under Titles IV-E and XIX of the Social Security Act. These rules will affect all counties in the State of Minnesota.

The rules contain definitions of terms; two formulae allocating Title IV-E and Title XIX funds; fiscal reporting requirements; a penalty provision for noncompliance with the fiscal reporting requirements; a formula for allocating federal disallowances pertaining to the funds allocated under these rules; a provision preventing any county from experiencing a decrease in administrative and training funds under Title IV-E in 1986; and a provision establishing parameters within which counties may claim funds under these rules for previous quarters.

A free copy of the rules is available upon request from Richard Harges, Minnesota Department of Human Services, 4th floor Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155; telephone (612) 296-2829. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule

**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

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and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Richard Harges, Minnesota Department of Human Services, 4th floor Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155; telephone (612) 296-2829 upon request.

Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available from Richard Harges, Minnesota Department of Human Services, 4th floor Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155; telephone (612) 296-2829.

If no hearing is required, upon adoption of the rule, the rule 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 Richard Harges.

Dated 9 July 1987

Sandra S. Gardebring  
Commissioner

### Rules as Proposed (all new material)

#### 9550.0300 PURPOSE.

The purpose of parts 9550.0300 to 9550.0370 is to establish the methods to be used in distributing to local agencies the dollars received by the Department of Human Services from the federal government for administrative and training costs incurred in providing social services under Title IV-E and Title XIX.

#### 9550.0310 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 9550.0300 to 9550.0370, the following terms have the meanings given them.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 3. **County board.** "County board" means the county board of commissioners in each county. When a human services board or welfare board has been established under Minnesota Statutes, sections 402.02 to 402.10, it shall be considered to be the county board for the purposes of parts 9550.0300 to 9550.0370.

Subp. 4. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 5. **Local agency.** "Local agency" means the social services agency authorized by the county board to provide community social services.

Subp. 6. **Social service cost pool.** "Social service cost pool" means all direct and indirect costs incurred by local agencies in providing community social services as defined in part 9550.0010, subpart 4, except costs that are not allocated through the use of the social service time study.

Subp. 7. **Social service time study.** "Social service time study" means the study conducted by the department that measures the portion of local agency staff time spent on various social service activities for the purpose of determining the percentage of administrative costs attributable to social service expenditures that are federally reimbursable.

Subp. 8. **Substitute care.** "Substitute care" means placement in a group home, family foster home, or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county, other political subdivision, or any of their agencies, to provide those services.

Subp. 9. **Title IV-E.** "Title IV-E" means the federal program that reimburses administrative and training costs incurred in providing services under Public Law Number 96-272 as amended through June 17, 1980.

Subp. 10. **Title IV-E money.** "Title IV-E money" means the federal dollars claimed and received by the department as reimbursement for administrative and training costs incurred by the local agencies under Title IV-E.

Subp. 11. **Title XIX.** "Title XIX" means the federal program that reimburses the costs incurred in providing health care to eligible persons under United States Code, title 42, sections 1396 to 1396p.

Subp. 12. **Title XIX money.** "Title XIX money" means the federal dollars claimed and received by the department under Title XIX as reimbursement for administrative costs incurred by the local agencies in providing social services to medical assistance program recipients.

**9550.0320 TITLE IV-E REIMBURSEMENT.**

The following equation shall be used to calculate the local agency's share of the Title IV-E money received by the department each quarter of the federal fiscal year:

$$\text{where } A_i = B \frac{C_i \left( \frac{D_i + F}{E_i + 10} \right)}{\sum_{i=1}^{87} C_i \left( \frac{D_i + F}{E_i + 10} \right)}$$

$A_i$  = the  $i$ th local agency's share of Title IV-E money received by the department

$B$  = the total amount of Title IV-E money received by the department to be distributed for the quarter

$C_i$  = the social service cost pool reported by the  $i$ th local agency during the quarter

$D_i$  = the average monthly number of IV-E eligible children on the  $i$ th local agency's caseload for the quarter

$E_i$  = the average monthly number of children in substitute care on the  $i$ th local agency's caseload for the quarter

$F$  = a stabilizing factor, equal to the statewide ratio of children eligible under Title IV-E to all children in substitute care, multiplied by ten

**9550.0330 TITLE XIX REIMBURSEMENT.**

The following equation shall be used to calculate the local agency's share of the Title XIX money received by the department:

$$\text{where } A_i = B \frac{\sqrt{C_i * D_i}}{\sum_{i=1}^{87} \sqrt{C_i * D_i}}$$

$A_i$  = the  $i$ th local agency's share of the Title XIX money to be distributed by the department

$B$  = the total amount of Title XIX money received for distribution by the department

$C_i$  = the social service cost pool reported by the  $i$ th local agency for the quarter

$D_i$  = the average monthly number of persons receiving medical assistance in the  $i$ th local agency during the quarter for whom the local agency is financially responsible

**9550.0340 REPORTING REQUIREMENTS.**

Subpart 1. **Information required.** To receive reimbursement under parts 9550.0300 to 9550.0370, the local agency must:

A. provide the information required by the department to conduct the social service time studies on which the state's federal reimbursement claims for administrative costs under Title IV-E and Title XIX are based; and

B. submit quarterly reports to the department no later than 20 calendar days after the end of the quarter on forms specified by the commissioner. The quarterly reports must provide the information needed to make the calculations specified in parts 9550.0320 and 9550.0330, including:

- (1) the local agency's social service cost pool for the quarter;
- (2) the average monthly number of children in the county who are eligible under Title IV-E during the quarter; and
- (3) the average monthly number of children in substitute care in the county during the quarter.

Subp. 2. **Penalty.** A local agency shall not receive its Title IV-E or Title XIX reimbursement until the agency has provided the information required under subpart 1. If the local agency does not meet the reporting requirements of subpart 1, the commissioner

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## Proposed Rules

shall send a written notice of noncompliance to the local agency. If a local agency does not comply with subpart 1 within 30 days of the date written notice was sent, the commissioner shall certify a reduction in the local agency's reimbursement by 20 percent for the quarter of noncompliance. When a local agency is notified of this action, it may make an appeal under Minnesota Statutes, section 256E.06, subdivision 10. Money received or retained by the department as a result of the penalty must be distributed to all local agencies that were not penalized. The percentage of penalty money received by each local agency must be equal to the percentage of Title IV-E money received by the local agency for the quarter.

### **9550.0350 DISALLOWANCES.**

Any disallowances due to audits of federal claims for administrative reimbursement must be shared by all local agencies. A local agency's percentage share of a disallowance must be equal to the percentage of the federal administrative reimbursement received by the local agency for the quarter and program to which the disallowance applies. The commissioner shall notify each county of the action to be taken and the reasons for the action.

### **9550.0360 HOLD HARMLESS CLAUSE.**

Subpart 1. **Effect.** For the federal fiscal year 1986, each county shall receive as reimbursement under part 9550.0320 no less than the amount of Title IV-E reimbursement received by the county as of April 1, 1987, for federal fiscal year 1985. The funds needed to satisfy the requirements of this part must be obtained by deducting an equal percentage from the federal fiscal year 1986 Title IV-E allocation to each local agency that did not submit a Title IV-E claim in federal fiscal year 1985.

Subp. 2. **Applicability.** This part applies only to allocations for federal fiscal year 1986.

### **9550.0370 PRIOR PERIOD ADJUSTMENT.**

Subpart 1. **Prior adjustments permitted.** A local agency may provide the department with amended reports to correct inaccuracies in data provided for previous quarters. Additional federal revenue obtained as a result of corrections in data for previous quarters must be distributed to all local agencies in accordance with the formulas in parts 9550.0320 and 9550.0330. Any money owed to the federal government because of amended local agency reports under this part must be billed to all local agencies in accordance with the formulas in parts 9550.0320 and 9550.0330.

Subp. 2. **Limitation on prior adjustments.** An amended report must be received by the department no later than 12 months after the reporting deadline for the quarter being amended.

## Pollution Control Agency

### Proposed Permanent Rules Relating to Air Quality Permit Fees

#### Notice of Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) will hold a public hearing in the above-entitled matter in the Board Room of the Agency, Lower Level, 520 Lafayette Avenue North, St. Paul, Minnesota, commencing at 9:30 a.m. on Tuesday, September 1, 1987. Additional days of hearing will be scheduled if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

The matter will be heard before Administrative Law Judge Bruce Campbell, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415 (612) 341-7602. The rule hearing procedure is governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1986) and by the rules of the Office of Administrative Hearings, *Minnesota Rules* Parts 1400.0200 to 1400.1200 (1985). Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above.

The subject of the hearing will be proposed amendments to rules governing air quality permit fees, *Minnesota Rules* Parts 7002.0010 to 7002.0110. The proposed rule amendments are authorized by *Minnesota Statutes* § 116.07, subd. 4d (1986). The proposed rule amendments are published below. One free copy of the rule amendments is available on request by contacting:

Ahto Niemioja  
Minnesota Pollution Control Agency  
20 Lafayette Road North  
St. Paul, Minnesota 55155  
(612) 296-7485

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the Agency offices and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rule amend-

ments. Copies of the Statement of Need and Reasonableness may be reviewed at the Agency offices or at the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Any person may present his or her views on the proposed rule amendments in one or more of the following ways: by submitting written data to the Administrative Law Judge at any time before the close of the hearing; by submitting oral or written data at the hearing; and by submitting written data to the Administrative Law Judge during the comment period following the hearing. The comment period will be not less than five working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. The written material received during the comment period shall be available for review at the Office of Administrative Hearings. Within three business days after the expiration of the comment period, the Agency and interested persons may respond in writing to any new information received during the comment period; however, no additional evidence may be submitted during this three-day period.

The Agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment period also submit a copy of the written data to Ahto Niemioja at the address stated above.

The proposed rule amendments may be modified if the data and views received during the hearing process warrant modification and the modification does not result in a substantial change in the proposed rules.

Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Agency may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rule amendments are adopted and filed with the Secretary of State. The notice must be filed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Agency at any time prior to the filing of the rules with the Secretary of State.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rules effect small business because they will increase all air quality application, processing, and annual fees (including those fees for small businesses) by an average of 60 percent.

Please be advised that *Minnesota Statutes* ch. 10A (1986) requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* § 10A.01, subd. 11 (1986) as any individual:

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

(b) Who spends more than \$250 not including his own 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.

The statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 624 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5615.

Thomas J. Kalitowski  
Executive Director

## **Rules as Proposed**

### **7002.0100 AIR QUALITY PERMIT FEE SCHEDULE.**

Subpart 1. [Unchanged.]

Subp. 2. **Application fee.** A person making application for an air emission facility permit or an indirect source permit shall submit with the application an application fee of ~~\$50~~ \$80.

Subp. 3. **Basic processing fees.** The permittee shall pay the following basic processing fees for the applicable permit activity:

A. ~~\$900~~ \$1,440 for the construction of an indirect source;

B. ~~\$900~~ \$1,440 for the construction or reconstruction of a major emission facility;

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## Proposed Rules

- C. ~~\$300~~ \$480 for the construction or reconstruction of an emission facility other than a major emission facility;
- D. ~~\$300~~ \$480 for the modification of a major emission facility or installation of air pollution control equipment at a major emission facility;
- E. ~~\$100~~ \$160 for the modification of an emission facility other than a major emission facility or installation of air pollution control equipment at an emission facility other than a major emission facility;
- F. ~~\$450~~ \$720 for the reissuance of a major emission facility permit; and
- G. ~~\$150~~ \$240 for the reissuance of an emission facility permit other than a major emission facility.

For purposes of this subpart, activities as described in items D and E that occur during the last year of the term of a permit will be addressed along with the reissuance of the permit for a new term. The agency shall waive the fee for items D and E and only assess a reissuance fee and applicable additional processing fees.

Subp. 4. **Additional processing fees.** In addition to the basic processing fees required in subpart 3, the permittee shall pay the following additional processing fees, if applicable:

- A. ~~\$500~~ \$800 for a major stationary source, as defined in Code of Federal Regulations, title 40, section 51.18(j)(1)(iv), as amended through June 25, 1982, located in a nonattainment area;
- B. ~~\$150~~ \$240 for an emission facility that is subject to the federal prevention of significant deterioration requirements as established in Code of Federal Regulations, title 40, section 51.24;
- C. ~~\$50~~ \$80 for an emission facility that is subject to the federal new source performance standards established in Code of Federal Regulations, title 40, part 60;
- D. ~~\$150~~ \$240 for an emission facility that must apply best available control technology as required under Code of Federal Regulations, title 40, section 51.24;
- E. ~~\$250~~ \$400 for evaluation of air emissions containing pollutants for which no ambient air quality standard has been established under part 7005.0080 (state ambient air quality standards) and which have the potential to be injurious to human health;
- F. ~~\$150~~ \$240 for dispersion modeling review; and
- G. ~~\$150~~ \$240 for each performance test review.

Subp. 5. **Annual fees.** All persons required to obtain an air emission facility permit shall pay the following applicable annual fee:

- A. ~~\$650~~ \$1,040 for a major emission facility; or
- B. ~~\$150~~ \$240 for an emission facility other than a major emission facility.

The agency shall not charge an annual fee for an emission facility with potential emissions of a single pollutant of more than 25 tons per year but less than 50 tons per year unless the facility also discharges lead to the ambient air.

Subp. 6. [Unchanged.]

## Waste Management Board

### Proposed Permanent Rules Relating to the Solid Waste Processing Facility Capital Assistance Program and the Solid Waste Processing Facilities Demonstration Program

#### Notice of Intent to Adopt Amendments to Existing Rules without a Public Hearing

Notice is hereby given that the Minnesota Waste Management Board proposes to adopt the above-entitled amendments to existing rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be non-controversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* § 14.22-14.28, as amended by *Laws 1984*, ch. 640, § 12-15.

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

Unless 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. Any person requesting a public hearing should state his or her name and address, and is

encouraged to identify the portion of the proposed amendment addressed, the reason for the request, and any change proposed. In the event a public hearing is required, the Waste Management Board will proceed according to the provisions of *Minnesota Statutes* § 14.08-14.28, as amended by *Laws 1984*, ch. 640, § 4-15.

Persons who wish to submit comments or a request for a public hearing should submit such comments or request in writing to:

Waste Management Board  
Attention: Ed Welsch  
123 Thorson Building  
7323 58th Avenue North  
Crystal, MN 55428  
(612) 536-0816

Authority for the adoption of these rules is contained in *Minnesota Statutes* § 115A.49-.54. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed amendments to existing rules and that identifies the data and information relied upon to support the proposed amendments to existing rules has been prepared. A copy may be obtained by contacting the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

If a hearing is not required, and upon adoption of the final amendments to existing rules without a public hearing, the proposed amendments to existing rules, this Notice, the statement of need and reasonableness, all written comments received, and the final amendments to existing rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final amendments to existing rules as adopted, should submit a written statement of such request to the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

A copy of the proposed amendments to the existing rules is attached to this Notice.

Copies of this Notice and the proposed amendments to existing rules are available and may be obtained by contacting the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, Mn. 55428.

Joseph M. Pavelich, Chair  
Waste Management Board

## **Rules as Proposed**

### **9200.6200 GRANT APPLICATION PROCEDURES.**

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Legislative priorities.** The board shall give priority to projects located in cities, counties, or districts in which:

- A. the natural geologic and soil conditions are especially unsuitable for land disposal of solid waste;
- B. and C. [Unchanged.]

### **9200.6300 ELIGIBILITY CRITERIA.**

Subpart 1. [Unchanged.]

Subp. 2. **Eligible projects.** Six types of projects are eligible for grants: waste to energy; materials recovery; chemical, physical, or biological modifications; transfer stations; special waste streams; and waste incineration with resource recovery. Eligible projects are limited to those in which the land, buildings, and equipment are publicly owned.

~~Projects that were awarded assistance by the board pursuant to applications submitted under Minnesota Statutes, sections 115A.49 to 115A.54 before July 1, 1985, are eligible for additional assistance under this program, but no project may receive a total amount of grant assistance in excess of the limits in part 9200.6700, subpart 1. Previously funded projects seeking additional funding under this program shall complete the documentation required under part 9200.6500.~~

Subp. 3. **Eligible costs.** Except as provided in part 9200.8220, eligible costs under parts 9200.6050 to 9200.6800 are limited to the costs of land; waste processing equipment; structures necessary to house the waste processing equipment; transmission facilities;

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## Proposed Rules

appropriate and necessary on-site utilities; landscaping; on-site roads and parking; structures necessary to concentrate and temporarily store solid waste before transportation to a waste processing facility; trailers, containers, and roll-off boxes necessary to transport wastes from transfer stations to a processing facility, to transport processing facility products to market, or to transport residue from the processing facility to a solid waste land disposal facility; and final design and engineering/architectural plans.

Subp. 4. **Ineligible costs.** Except as provided in part 9200.8220, ineligible costs include any costs related to solid waste disposal facilities and equipment, structures for housing and maintenance of rolling stock, or any costs related to resource recovery studies, feasibility analyses, or preliminary design and engineering/architectural plans.

### 9200.6500 SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH GRANT APPLICATION.

Applications for waste processing facilities grants shall include the following supporting documentation:

A. and B. [Unchanged.]

C. A report demonstrating that the project is not financially ~~feasible~~ prudent without state assistance, due to the applicant's financial capacity and the problems inherent in waste management in the area. The report shall include the following documentation:

(1) to (8) [Unchanged.]

(9) other characteristics of waste management in the area that render state assistance ~~necessary~~ important to the financial feasibility of the project.

D. to J. [Unchanged.]

K. If the applicant requests priority under Minnesota Statutes, section 115A.49, documentation:

(1) that the natural geologic and soil conditions are especially unsuitable for land disposal of solid waste;

(2) and (3) [Unchanged.]

~~L. If the project has previously received funding from the board under the board's solid waste processing facility demonstration program, documentation of how the project has changed since the previous award and why the project is not financially feasible without additional funding. This documentation shall include:~~

~~(1) a description of changes in the scope or design of the project;~~

~~(2) a description of changes in major external factors affecting the project;~~

~~(3) an explanation and demonstration of why the project is no longer financially feasible without additional state assistance;~~  
and

~~(4) a revised implementation schedule.~~

~~M. If the project serves eligible jurisdictions in only a single county, documentation demonstrating that cooperation with jurisdictions in other counties is not needed or not feasible, including:~~

~~(1) and (2) [Unchanged.]~~

### 9200.6600 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Evaluation of need for financial assistance.** In making its evaluation of the application, the board shall first evaluate the information supplied in part 9200.6500, item C to determine whether or not board assistance is ~~necessary~~ important for facility development. If the board determines that assistance is not necessary, evaluation of the application shall cease and the application shall be returned to the applicant. If the board determines that assistance is necessary, evaluation will proceed to the second stage. During the second stage, the board shall evaluate documentation submitted under part 9200.6500, items A, B, and D to ~~M~~ L.

Subp. 4. **Evaluation of applications.** If the board determines that the project is in need of state assistance, the board shall evaluate the application to determine whether the application demonstrates:

A. to D. [Unchanged.]

E. that for projects serving eligible jurisdictions in only a single county, cooperation with jurisdictions in other counties to develop the project is not needed or not feasible; and

~~F. that resource recovery facilities that burn waste, convert waste to energy, or convert waste into materials for combustion will not accept recyclable materials except for transfer to a recycler; and~~

~~G. that the project is not financially feasible~~ prudent without state assistance, because of the applicant's financial capacity



and the problems inherent in the waste management situation in the area, particularly transportation distances and limited waste supply and markets for resources recovered.

Subp. 5. and 6. [Unchanged.]

#### **9200.6700 LIMITATIONS.**

Subpart 1. **Maximum grant award.** Except as provided in part 9200.8220, the maximum grant award is 25 percent of the eligible capital costs of the project or \$2,000,000, whichever is less, unless the project is a recycling project or a project to compost or co-compost waste. A recycling project or a project to compost or co-compost waste may receive grant assistance up to 50 percent of the capital cost of the project or \$2,000,000, whichever is less.

Subp. 2. and 3. [Unchanged.]

#### **9200.6800 GRANT AGREEMENT.**

Subpart 1. **Requirements.** A grant agreement shall:

A. to D. [Unchanged.]

E. provide that the board will not accept amendments requesting that additional funds be awarded to the recipient except as provided in part 9200.8220;

F to H. [Unchanged.]

Subp. 2. and 3. [Unchanged.]

#### **9200.8210 DEFINITIONS.**

The definitions in Minnesota Statutes, section 115A.03, and in parts 9200.6000 to 9200.6800 and 9200.8100 to 9200.9100 apply to part 9200.8220 unless the context requires otherwise.

#### **9200.8220 ENVIRONMENTAL TESTING GRANTS.**

Subpart 1. **Eligible applicants.** Eligible applicants are limited to those eligible under Minnesota Statutes, section 115A.50.

Subp. 2. **Eligible projects.** Eligible projects are limited to those eligible for funding under Minnesota Statutes, section 115A.54.

Subp. 3. **Eligible costs.** Eligible costs under this part are limited to the costs of tests necessary to determine the appropriate pollution control equipment for the project or the environmental effects of the use of any product or material produced by the project. Tests necessary to determine the appropriate pollution control equipment shall be limited to those tests needed to identify pollution control equipment needed to bring the facility into compliance with applicable standards. The cost of monitoring required to comply with operating permit conditions is not eligible for funding under this part.

Subp. 4. **Information on grant application.** Applications for environmental testing grants shall include the following information as required in the application forms supplied by the board:

A. the name of each applicant making the grant application;

B. the name of each political subdivision affected by the project;

C. the name, qualifications, and address of the project manager;

D. the name, qualifications, and address of the facility operator;

E. the total costs of testing eligible for funding under this part as documented by a proposal from a testing laboratory to perform the testing setting out the costs of the testing that will be performed;

F. the amount of grant funding requested;

G. the type of waste processing facility for which the application is being submitted, and the type of testing that is needed for the facility; and

H. a work plan including a detailed description of the type of testing that will be performed, who will be performing the testing, and a time schedule for the testing. It is recommended that applicants contact the Pollution Control Agency or other regulatory agency before developing a test proposal to receive assistance in determining the tests that are needed.

Subp. 5. **Review and approval of applications.** The chair shall review each application for funding under this part for eligibility

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## Proposed Rules

and completeness. When the chair has determined that the applicant is eligible and that the application is complete, the chair shall forward the application to the Pollution Control Agency, or other appropriate regulatory agencies, for review.

**Subp. 6. Board determination.** The board shall evaluate the application to determine if the proposed testing is necessary to determine the appropriate pollution control equipment for the project or the environmental effects of the use of any product or material produced by the project. In making this determination, the board shall consider the comments of the Pollution Control Agency or other regulatory agency that has reviewed the application. If the board determines that the proposed testing is necessary, the board shall determine the amount to be awarded and authorize the chair to enter into an agreement with the applicant governing disbursement of funds.

**Subp. 7. Funding level.** The board shall fund 100 percent of the cost of testing under this part. The maximum grant award per project shall be limited to \$100,000. Grants shall not be awarded to cover any cost associated with tasks performed before the grant award or after the expiration of the grant agreement.

**Subp. 8. Grant agreement.** The grant agreement shall incorporate by reference the final grant application submitted to the board under this part; provide that any cost overruns incurred by the testing program shall be the sole responsibility of the recipient; provide that the board will not accept amendments requesting that additional funds be awarded to the recipient unless the board determines that additional testing is necessary; and require that the recipient make the information developed as a result of the testing available to the state and other persons who request the information.

### 9200.8300 ELIGIBILITY CRITERIA.

Subpart 1. and 2. [Unchanged.]

**Subp. 3. Eligible costs.** Except as provided in part 9200.8220, eligible costs under parts 9200.8100 to 9200.9200 shall be limited to the costs of land, waste processing equipment, structures necessary to house the waste processing equipment, appropriate and necessary on-site utilities, landscaping; on-site roads and parking; trailers, containers, and roll-off boxes necessary to transport products to market, or to transport residue from the processing facility to a solid waste land disposal facility, and final design and engineering/architectural plans.

**Subp. 4. Ineligible costs.** Except as provided in part 9200.8220, ineligible costs include any costs related to solid waste disposal facilities and equipment, structures for housing and maintenance of rolling stock, or any costs related to resource recovery studies, feasibility analyses, or preliminary design and engineering/architectural plans.

### 9200.8500 SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH APPLICATION.

Applications for grants or loans for waste processing facilities shall include the following supporting documentation:

A. to I. [Unchanged.]

J. if the applicant requests priority under Minnesota Statutes, section 115A.49, documentation:

- (1) that the natural geologic and soil conditions are especially unsuitable for land disposal of solid waste;
- (2) that the available capacity of existing solid waste disposal facilities is less than five years; or
- (3) that the proposed project would serve more than one local government unit.

### 9200.8600 GRANT AND LOAN APPLICATION PROCEDURES.

Subp. 1a. [Unchanged.]

Subp. 2a. [Unchanged.]

Subp. 4. [Unchanged.]

**Subp. 5. Legislative priorities.** The board shall give priority to projects located in cities, counties, or districts in which:

- A. the natural geologic and soil conditions are especially unsuitable for land disposal of solid waste;
- B. the capacity of existing solid waste disposal facilities is less than five years; or
- C. the project serves more than one local government unit.

### 9200.9000 AWARD OF GRANTS AND LOANS.

**Subp. 4. Maximum awards.** The maximum loan award shall be 50 percent of the eligible costs specified in the application or \$400,000, whichever is less. Except as provided in part 9200.8220, the maximum grant award shall be 50 percent of the eligible costs specified in the application or \$400,000, whichever is less. Except as provided in part 9200.8220, the maximum combined grant and loan award is \$400,000.

Subp. 5. and 6. [Unchanged.]

**9200.9100 GRANT, LOAN, OR GRANT AND LOAN AGREEMENT.**

Subpart 1. **Requirements.** A grant, loan, or grant and loan agreement shall:

A. to F. [Unchanged.]

G. provide that the board will not accept amendments requesting that additional funds be awarded to the recipient except as provided in part 9200.8220;

H. to K. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

## **Minnesota Waste Management Board**

### **Proposed Permanent Rules Relating to the Solid Waste Reduction and Separation Grant Program**

#### **Notice of Intent to Adopt New Rules without a Public Hearing**

Notice is hereby given that the Minnesota Waste Management Board proposes to adopt the above-entitled rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be non-controversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* § 14.22-14.28, as amended by *Laws 1984*, ch. 640, § 12-15.

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

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. 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. In the event a public hearing is required, the Waste Management Board will proceed according to the provisions of *Minnesota Statutes* § 14.08-14.28, as amended by *Laws 1984*, ch. 640, § 4-15.

Persons who wish to submit comments or a request for a public hearing should submit such comments or request in writing to:

Waste Management Board  
Attention: Ed Welsch  
123 Thorson Building  
7323 58th Avenue North  
Crystal, MN 55428  
(612) 536-0816

Authority for the adoption of these rules is contained in *Minnesota Statutes* § 115A.49-.53. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and that identifies the data and information relied upon to support the proposed rules has been prepared. A copy may be obtained by contacting the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

If a hearing is not required, and upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

A copy of the proposed rules is attached to this Notice.

**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

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Copies of this Notice and the proposed rules are available and may be obtained by contacting the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

Joseph M. Pavelich, Chair  
Waste Management Board

### Rules as Proposed (all new material)

#### 9200.6900 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in Minnesota Statutes, section 115A.03, and in this part apply to parts 9200.6900 to 9200.6906, unless the context requires otherwise.

Subp. 2. **Chair.** "Chair" means the chief executive officer of the board.

Subp. 3. **Comprehensive solid waste management plan.** "Comprehensive solid waste management plan" means a written plan prepared under Minnesota Statutes, section 115A.46.

Subp. 4. **Household hazardous waste.** "Household hazardous waste" has the meaning given it in Minnesota Statutes, section 115A.96, subdivision 1.

Subp. 5. **Household hazardous waste management.** "Household hazardous waste management" means activities that are intended to affect or control the generation of household hazardous waste, and activities that provide for or control the collection, processing, and disposal of household hazardous waste.

Subp. 6. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 116.06, but does not include the board.

Subp. 7. **Project.** "Project" means a solid waste reduction or separation project.

Subp. 8. **Solid waste.** "Solid waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 10.

Subp. 9. **Solid waste disposal facilities and equipment.** "Solid waste disposal facilities and equipment" means structures, machinery, or devices at a disposal site necessary for efficient land disposal of solid wastes, including machinery or devices designed to move earth during burial of wastes and machinery or devices designed to increase the density of wastes buried or to be buried, and facilities in which solid waste is temporarily stored and concentrated before transport to a disposal site.

Subp. 10. **Waste processing equipment.** "Waste processing equipment" means machinery or devices used as an integral component of a waste processing facility.

Subp. 11. **Waste processing facility.** "Waste processing facility" means structures and equipment, singly or in combination, that are designed, constructed, and used to separate, modify, convert, heat, prepare, or otherwise process solid waste so that materials, substances, or energy contained within the waste may be recovered for subsequent use.

Subp. 12. **Waste reduction.** "Waste reduction" means decreasing the generation of solid waste at its source either by redesigning products and packaging or by changing procurement, consumption, or waste generation habits.

Subp. 13. **Waste separation.** "Waste separation" means the process of segregation, accumulation, or collection of recyclable or compostable solid wastes.

#### 9200.6901 PURPOSE AND ADMINISTRATION.

Parts 9200.6900 to 9200.6906 implement the solid waste reduction and separation grant program created and described in Minnesota Statutes, sections 115A.49 to 115A.53, by establishing the substantive criteria and procedural conditions under which the board may award grants for the costs of solid waste reduction and separation projects. Applicants for grants under this program are encouraged to contact the chair and request a preapplication review of proposed projects.

#### 9200.6902 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Eligible applicants are limited to cities, counties, and solid waste management districts established under Minnesota Statutes, sections 115A.62 to 115A.72. Eligible applicants may apply for grants on behalf of any person who is not an eligible applicant, but the named recipient shall be the city, county, or district.

Subp. 2. **Eligible projects.** Only solid waste reduction projects, solid waste separation projects, and collection systems for separated solid wastes are eligible for grants. To be eligible for funding, a project must be a new project or an expansion of an existing project. A project may include household hazardous waste management, but may not consist solely of household hazardous waste management.

Subp. 3. **Eligible costs.** Grant funding is available for development costs as defined in subpart 4 and implementation costs as defined in subpart 5. Development costs shall be no more than 20 percent of the total grant award.

Subp. 4. **Development costs.** Development costs are the costs incurred in the preparation of the application and documentation required under part 9200.6903.

Subp. 5. **Implementation costs.** Implementation costs are limited to:

A. capital costs of waste reduction and separation equipment such as source separation collection vehicles, collection trailers, drop boxes, curbside collection bins, and other containers used exclusively for the collection or transport of separated wastes or the management of household hazardous waste; and

B. costs of any necessary legal, financial, economic, educational, marketing, social, governmental, and administrative activities required for the implementation of the project.

Subp. 6. **Household hazardous waste disposal costs.** The cost of household hazardous waste disposal is eligible provided no feasible alternative to disposal exists and no funding is available from federal, state, metropolitan, local, or private sources to fund the cost of disposal.

Subp. 7. **Ineligible costs.** Ineligible costs include any costs related to the purchase of real property, waste processing equipment, structures necessary to house waste collection or processing equipment, and costs related to solid waste disposal facilities and equipment used exclusively for disposal of solid waste.

#### **9200.6903 INFORMATION AND DOCUMENTATION REQUIRED IN GRANT APPLICATION.**

An application for a solid waste reduction and separation project grant shall include the following information, as required in the application form supplied by the board:

A. the name of each applicant making the grant application;

B. the name of each political subdivision affected by the project, located in the area studied in the project, or located in the area in which the project is intended to be implemented;

C. a resolution from each political subdivision participating in the project that demonstrates that it will implement the project, provide necessary local financing, and accept and exercise the government powers necessary to develop and operate the project;

D. the name, address, and qualifications of the project manager;

E. the name and qualifications of the project operator, if available;

F. the total estimated cost of the project;

G. the total grant-eligible cost of the project;

H. the amount of grant funding requested;

I. the amount and source of all other money to be used to fund the project, including the amount of money to be contributed by the applicant;

J. a detailed description of the proposed project, including the amounts of each type of waste to be reduced or separated;

K. a comprehensive solid waste management plan developed under Minnesota Statutes, section 115A.46;

L. for waste separation projects, documentation that waste supplies will be committed to the project for the life of the project and that the applicant has the mechanism to commit the wastes;

M. for waste separation projects, a preliminary market analysis for recovered materials, including documentation of commitments to market recovered materials, such as letters of intent or contracts;

N. a discussion of the need for an education program to be developed in conjunction with the project and, if such a program is proposed, a description of the program;

O. a detailed description of any proposed household hazardous waste management program and documentation that the applicant has or will obtain the capacity to handle household hazardous waste properly;

P. a discussion of the status of required permits from permitting agencies;

Q. a discussion of any potential adverse environmental effects from the project and how they will be mitigated;

R. a work plan that demonstrates how the applicant will implement the project, including:

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## Proposed Rules

- (1) the specific tasks to be completed under the grant;
- (2) the work hours of staff, consultants, and employees of local government units needed to complete each of the tasks;
- (3) the costs of completing each task, including an explanation of how the cost was calculated;
- (4) the time schedule needed to complete each task; and
- (5) a description of the reports, documents, public education material, market analyses, and other written materials to be developed;

S. documentation of costs incurred by the applicant in preparing the grant application, if the applicant seeks reimbursement for development costs; and

T. if the applicant requests priority under Minnesota Statutes, section 115A.49, documentation that:

- (1) the natural geologic and soil conditions are especially unsuitable for land disposal of solid waste;
- (2) the available capacity of existing solid waste disposal facilities serving the applicant is less than five years; or
- (3) the proposed project would serve more than one local government unit.

### 9200.6904 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair shall determine the eligibility of the applicant, the eligibility of the project identified in the application, the eligibility of the costs identified in the application, and the completeness of the application.

Subp. 2. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the project is ineligible, the chair shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the chair determines that any part of the project costs is ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 30 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are corrected within the time allowed, the application will be further considered. If the inadequacies are not corrected within the time allowed, the application is rejected, and the applicant must submit a new application to be considered again. If the chair determines that the application is complete and the project is eligible to receive grant funds, the chair shall forward the application to the board for its evaluation.

Subp. 3. **Evaluation of applications.** The board shall evaluate the application. In order to receive funding, the application must demonstrate that:

- A. the project is conceptually and technically feasible;
- B. the affected political subdivisions are committed to developing and implementing the project, providing necessary local financing, and accepting and exercising the government powers necessary for project development and implementation;
- C. operating revenue from the project, considering the availability and security of sources of solid waste and of markets for recyclable materials together with any proposed federal, state, local, or private financial assistance, will be sufficient to pay all costs; and
- D. the applicant has evaluated the feasible and prudent alternatives to disposal and has compared and evaluated the costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators, as required by Minnesota Statutes, section 115A.46.

Subp. 4. **Board determination.** If the board determines that the application satisfies the requirements of subpart 3, the board shall determine the amount of the grant award and the applicant shall be so notified. The board shall fund applications that satisfy the criteria established in subpart 3 in the order that the applications come before the board for decision. If applications come before the board at the same time and program funds are not adequate to fund all applications before the board, the board shall give priority to applications that meet the priority criteria established in Minnesota Statutes, section 115A.49. If the board determines that the application fails to satisfy the requirements of subpart 3, the board shall reject the application and the chair shall return the application to the applicant, together with a statement of the reasons for the determination.

Subp. 5. **Consultation with other agencies.** In its evaluation of the application, the board shall consider any recommendations provided by the Pollution Control Agency, the State Planning Agency, the appropriate regional development commission, the Metropolitan Council, and other state and regional authorities.

### 9200.6905 LIMITATIONS.

Subpart 1. **Matching funds required.** A grant awarded under parts 9200.6900 to 9200.6906 must be matched by federal, local,

private, or other state grants, loans, or contributions, the total of which must equal the amount of the grant applied for. Local government funding may be in the form of cash or in-kind matching funds.

Subp. 2. **Maximum grant.** The maximum grant award for each eligible project is \$50,000.

Subp. 3. **Limitations on grant award.** The amount of the board's grant award shall be limited to an amount needed to complete the project considering all the sources of funding presently available to the applicant, whether or not the applicant has applied for funds. Grants shall not be awarded to cover any cost associated with tasks performed before the grant award or after the expiration of the grant agreement, other than development costs incurred in the preparation of the grant application.

Subp. 4. **Limitations on disbursement of funds.** No grant money shall be paid to an applicant until the board has determined the total estimated cost of the project and ascertained that financing of the cost is assured by funds provided by the state, by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state, by any person, or by the appropriation of bond proceeds, or other funds of the recipient, to a fund for the development and implementation of the project.

#### **9200.6906 GRANT AGREEMENT.**

Subpart 1. **Requirements.** No grant money shall be paid to an applicant awarded a grant until that applicant has executed a written grant agreement with the board. The grant agreement shall:

- A. incorporate by reference the final grant application submitted to the board in accordance with part 9200.6903;
- B. allow the recipient to enter into contracts to complete the work specified in the agreement subject to any board approval that may be required in the agreement;
- C. provide that any cost overruns incurred in the development and implementation of the proposed project shall be the sole responsibility of the recipient;
- D. provide that the board will not accept amendments requesting that additional funds be awarded to the recipient; and
- E. require the recipient to provide periodic written reports to the board on the developmental and implementation history of the project so that knowledge and experience gained from the project may be made available to other communities in the state.

Subp. 2. **Rescission of grant.** If a project is not developed and implemented in accordance with the terms and conditions of the grant agreement, including time schedules, the grant shall be rescinded, and the entire amount of the grant shall be repaid unless the board determines that a variance from the agreement is justified and that the original objectives of the project will be accomplished.

Subp. 3. **Disbursement.** The board shall pay grant money to the recipient in accordance with the payment schedule in the grant agreement.

**REPEALER.** Minnesota Rules, parts 7035.6500, 7035.6600, 7035.6700, 7035.6800, 7035.6900, 7035.7000, 7035.7100, 7035.7200, 7035.7300, 7035.7400, 7035.7500, and 7035.7600 are repealed.

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## 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 Adult Foster Care Services and Licensure of Adult Foster Homes

The rules proposed and published at *State Register*, Volume 11, Number 14, pages 650-668, December 6, 1986 (11 S.R. 650) are adopted with the following modifications:

#### Rules as Adopted

##### 9555.5105 DEFINITIONS.

Subp. 5. **Adult foster home.** "Adult foster home" means a residence operated by an operator who, for financial gain or otherwise, provides ~~up to four functionally impaired residents with 24-hour foster care to~~ no more than four functionally impaired residents.

Subp. 19. **Individual resident placement agreement.** "Individual resident placement agreement" means the written document specifying the terms for provision of foster care to an adult that is developed under part 9555.5705 for persons receiving services under part 9525.0075 or 9550.0090 or under part 9555.6167 for persons not receiving community social services or services for persons with mental retardation or a related condition. The individual resident placement agreement must:

D. describe any other community, health and social services that the operator will assist in providing;

Subp. 24. **Local agency.** "Local agency" means the county or multi-county social service agency governed by the county board or multi-county human services board of the county in which the adult foster home is located. If the local agency is also providing foster care services to the resident, then the local agency is also the service agency defined in subpart 34.

Subp. 33. **Roomer.** "Roomer" means a household member who is not related to the ~~provider~~ operator and is not a resident or caregiver.

##### 9555.5415 LICENSING ASSISTANCE.

Subp. 2. **Unlicensed residences.** When the local agency has reasonable cause to believe a residence required to be licensed under parts 9555.6105 to 9555.6265 is operating without a license, the local agency must verify the home's license status following the procedures in items A and B.

B. If no application is made to obtain a license within 30 days after the operator is told of the licensure requirements, the city or county attorney for the local agency with jurisdiction to bring misdemeanor charges shall be notified by the local agency. The operator of a residence required to be licensed under parts 9555.5105 and 9555.6105 to 9555.6265 that is operating without a license is subject to misdemeanor prosecution and injunction under Minnesota Statutes, section 245.803.

C. A complaint concerning violations of parts 9555.6105 to 9555.6265 shall be investigated by the local agency within 14 working days of receipt, except complaints concerning abuse or neglect, which shall be investigated in accordance with parts 9555.7100 to 9555.7700. Substantiated complaints about an operator licensed under parts 9555.5105 and 9555.6105 to 9555.6265 shall be recorded in the record on the residence in part ~~9555.6155~~ 9555.5515.

##### 9555.5515 RECORD ON THE RESIDENCE.

A record for the residence licensed as an adult foster home shall be maintained by the commissioner and contain:

A. a copy of the completed licensing application form signed by the applicant and the representative of the commissioner, as specified in part 9555.6115, subpart 1;

B. the physician's reports on caregivers and household members specified in part 9555.6125 if the operator is an individual;

C. the initial and subsequent inspection report from the fire marshal specified in part 9555.6125 and the subsequent home safety checklists;



D. any written inspection reports from a health authority or building official;

E. the commissioner's initial and any renewal licensing studies and inspections;

F. any comments of the operator or provider about the licensing studies and inspections;

G. written references from at least three persons who know about the applicant's potential to operate an adult foster home. If the applicant has been licensed through another jurisdiction, the local agency shall also request and keep a reference from the licensing authority in that jurisdiction;

H. a list of residents currently in the residence;

I. a list of residents who have been in the residence in the past five years;

J. documentation of any variances to parts 9555.6105 to 9555.6265;

K. arrest, conviction, and criminal history records on the operator, caregivers, and household members;

L. if the operator is a partnership, corporation, or governmental unit, the information required in part 9555.6125, subpart 3, item C, subitems (1), (2), (3), (6), and (7);

M. a copy of the commissioner approved, written adult foster home program required in part 9555.6235;

N. a record of any substantiated complaints of abuse and neglect as defined in Minnesota Statutes, section 626.557 and any corrective action taken under parts 9555.7100 to 9555.7700; and

O. a copy of the facility abuse prevention plan required under the Vulnerable Adults Act.

#### **9555.6125 LICENSING STUDY.**

Subp. 3. **Study of applicant.** A study of the applicant shall be conducted by the commissioner under items A to D.

A. The applicant shall provide the commissioner with a completed, signed form as required by Minnesota Statutes, section 245.783, subdivision 3, for the disclosure of arrest, conviction, and criminal history records for each caregiver, household member over the age of ~~42~~ 13, and each owner, partner, board member, and employee who will be involved in the operation of the adult foster home. The form must disclose the person's full name and all previous or additional names, date of birth, the specific nature of information to be disclosed, who will receive the information, and who will disclose it. The commissioner shall seek the assistance of the Minnesota Bureau of Criminal Apprehension, the county attorney, and sheriff or chief of police in the locality where the person resides in determining the person's arrest, conviction, or criminal history record. If the person has not resided in the state for five years, the form shall also be sent to a national criminal history repository. In the case of a household member who is nine years of age but under the age of 14, the commissioner shall ascertain from the local court of jurisdiction whether the juvenile has been adjudicated as a delinquent for any of the acts specified in subpart 4, items D and E.

B. The applicant who is an individual shall provide social history information to the commissioner about each ~~caregiver and~~ household member. "Social history information" means information on education; employment; financial condition; military service; marital history; strengths and weaknesses of household relationships; mental illness; chemical dependency; hospitalizations; involuntary terminations of parental rights; the use of mental retardation services; felony, gross misdemeanor or misdemeanor convictions, arrests or admissions; and substantiated reports of neglect or abuse.

Subp. 4. **Qualifications.** Operators, caregivers, and household members must meet the qualifications in items A to H.

D. Operators, caregivers, and household members must not have a conviction of, adjudication of delinquency for, have admitted to, or there be substantial evidence as determined by the local agency or department indicating abuse or neglect as those terms are defined in Minnesota Statutes, sections 626.556 and 626.557 or assault as defined in Minnesota Statutes, sections 609.221 to 609.235, 609.322 to 609.342, 609.343, 609.344, or 609.345.

E. Operators, caregivers, and household members must not be awaiting trial for or have a conviction of, adjudication of delinquency for, or admission of any crime listed in Minnesota Statutes, sections 152.09, 152.096, 152.097, 609.185 to 609.345, 609.365, 609.377, 609.378, 609.52, 609.521, 609.525, 609.53, 609.54, 609.551, 609.561 to 609.563, 609.582, 609.59, 609.625, 609.63, 609.687, 609.71, 609.713, 609.821, 617.23, 617.246, other than those listed in item D, or the same or similar crime listed in the laws of another state or of the United States or of another country.

H. Caregivers and household members must not have a mental illness or condition as diagnosed by a psychiatrist or licensed psychologist that has documented behaviors that the commissioner determines would jeopardize the health, rights, or safety of

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## Adopted Rules

residents. Past history of a mental illness or condition may be considered. "Mental illness" means ~~the inability to interpret reality realistically and the impaired functioning in an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), Ninth Revision (1980), code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-III), Third Edition (1980), Axes I, II, or III, and that seriously limits a person's functional capacities relative to primary aspects of daily living, such as personal relations, living arrangements, work, and recreation. These publications are incorporated by reference and are not subject to frequent change. They are available in the State Law Library, Ford Building, 117 University Avenue, St. Paul, Minnesota 55155.~~

Subp. 12. **Change in license terms.** The following shall apply to changes in the terms of licensure:

A. The license issued must not be transferred to another operator, building, or address unless the provisions in item B are followed first.

### **9555.6155 RECORD ON THE RESIDENCE.**

A record for the residence licensed as an adult foster home shall be maintained by the commissioner and contain:

A. a copy of the completed licensing application form signed by the applicant and the representative of the commissioner, as specified in part 9555.6115, subpart 1;

B. the physician's reports on caregivers and household members specified in part 9555.6125 if the operator is an individual;

C. the initial and subsequent inspection report from the fire marshal specified in part 9555.6125 and the subsequent home safety checklists;

D. any written inspection reports from a health authority or building official;

E. the commissioner's initial and any renewal licensing studies and inspections;

F. any comments of the operator or provider about the licensing studies and inspections;

G. written references from at least three persons who know about the applicant's potential to operate an adult foster home. If the applicant has been licensed through another jurisdiction, the local agency shall also request and keep a reference from the licensing authority in that jurisdiction;

H. a list of residents currently in the residence;

I. a list of residents who have been in the residence in the past five years;

J. documentation of any variances to parts 9555.6105 to 9555.6265;

K. arrest, conviction, and criminal history records on the operator, caregivers, and household members, and caregivers;

L. if the operator is a partnership, corporation, or governmental unit, the information required in part 9555.6125, subpart 3, item C, subitems (1), (2), (3), (6), and (7);

M. a copy of the commissioner approved, written adult foster home program required in part 9555.6235;

N. a record of any substantiated complaints of abuse and neglect as defined in Minnesota Statutes, section 626.557 and any corrective action taken under parts 9555.7100 to 9555.7700; and

O. a copy of the facility abuse prevention plan required under the Vulnerable Adults Act.

### **9555.6175 COOPERATE AND REPORT TO AGENCIES.**

Subp. 3. **Reporting to local agency.** The operator shall ensure that the local agency is told:

C. immediately after the occurrence of any serious injury or death of a resident. "Serious injury" means an injury that is ~~treated~~ requires treatment by a physician;

### **9555.6205 PHYSICAL ENVIRONMENT.**

Subp. 4. **Resident bedrooms.** Residents must mutually consent, in writing, to share a bedroom with another resident. No more than two residents may share one bedroom.

### **9555.6225 SANITATION AND HEALTH.**

Subp. 3. **Physical examination of resident.** The operator must ensure that each resident ~~must be~~ is examined by a physician no more than 30 days before or within three days after placement in the adult foster home to ensure that the resident is free of the reportable communicable diseases named in parts 4605.7000 to 4605.7800. Transfer records from a health care facility licensed by the Department of Health may be substituted for this requirement.

**9555.6245 PERSONAL RECORD OF RESIDENT IN FOSTER CARE.**

Subp. 5. **Incident reports.** The record must contain all incident reports. Incident reports must be written when a resident requires emergency care, when a police report of an incident involving a resident has been made, or when a complaint has been filed under the Vulnerable Adults Act. Incident reports must be entered into the resident's personal record by the provider operator within ~~two~~ eight hours after knowledge of the occurrence.

**9555.6265 SAFEGUARDS FOR CASH RESOURCES ENTRUSTED TO OPERATOR.**

Subp. 2. **Procedures for handling cash resources.** If a resident entrusts cash resources to the operator, the procedures in items A to F must be used.

E. Upon the death or transfer of a resident, any cash resources of the resident must be surrendered to the resident or the resident's legal representative, or given to the executor or administrator of the estate ~~or, if none has been appointed, to the resident's legal representative~~ in exchange for an itemized receipt.

## Department of Administration

### Adopted Permanent Rules Relating to the State Building Code

This notice is reprinted as it appeared in the *State Register*, Volume 12, Number 3, page 102, July 20, 1987 at the request of the Building Codes and Standards Division of the Department of Administration.

The rule proposed and published at *State Register*, Volume 11, Number 43, pages 1982-1984, April 27, 1987 (11 S.R. 1982) is adopted as proposed.

## Board of Animal Health

### Adopted Permanent Rules Relating to Control of Rabies in Minnesota

The rules proposed and published at *State Register*, Volume 11, Number 39, pages 1775-1777, March 30, 1987 (11 S.R. 1775) are adopted as proposed.

## Minnesota Manufacturer's Directory 1986-87

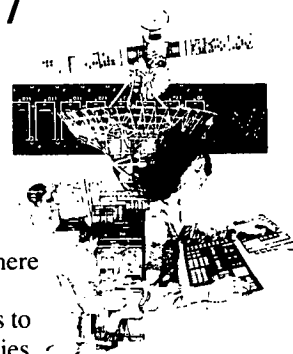


UPDATED: Name, address, phone number, staff size, sales volume, market area, year of establishment, type of firm, C.E.O., Sales or Marketing Manager, Purchasing Manager and four major manufactured products. Code #40-2, \$68.50.

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



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



TO ORDER: 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." Please include 6% sales tax, and \$1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over 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.

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# Emergency Rules

## Proposed Emergency Rules

According to Minn. Stat. of 1984, §§ 14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

- 1) that a free copy of the proposed emergency rule is available upon request from the agency;
- 2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
- 3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
- 4) that the emergency rule may be modified if the data and views submitted support such modification.

## Adopted Emergency Rules

Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§ 14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

## Continued/Extended Emergency Rules

Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

# Department of Agriculture

## Proposed Emergency Rules Relating to the Reinvest in Minnesota Program

### Notice of Intent to Adopt Emergency Rules

Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above entitled emergency rules. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, section 40.45. The department, in adopting the rule, is following the procedures set forth in the Administrative Procedures Act for adopting emergency rules in Minnesota Statutes, sections 14.29-14.36.

All persons have 25 days after publication to submit data and views on the proposed emergency rules or any part or subpart of the rule in writing. Any comments must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107, (612) 296-6906.

A copy of the proposed rule is attached to this notice. A free copy of the proposed emergency rule is available by contacting Ms. Milligan.

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

Upon adoption of the emergency rules by the department, the emergency rules as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any persons 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 a written request to Ms. Milligan.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rule will be continued in effect for an additional 180 days if the department gives notice of continuation in accordance with Minnesota Statutes, section 14.35.

Dated: 1 July 1987

Jim Nichols  
Commissioner of Agriculture

### Rules as Proposed

#### SOIL AND WATER CONSERVATION BOARD RIM RESERVE PROGRAM

#### 8400.3000 [Emergency] AUTHORITY.

Minnesota Statutes, chapter 40, authorizes the state board commissioner, in cooperation with the state board, districts, state and local private groups, and state and federal agencies, to administer implement a program of retiring marginal agricultural land from crop production and establishing on those lands permanent vegetative cover, restoring converted wetlands, or establishing windbreaks adjacent to highways. Parts 8400.3000 to 8400.5600 [Emergency] provide procedures and criteria to be followed by the state board in administering the program and allocating funds to districts and. Standards and guidelines that the district boards shall must use in allocating funds to landowners are also provided.

**8400.3100 [Emergency] DEFINITIONS.**

Subpart 1. **Scope.** For purposes of parts 8400.3000 to 8400.5600 [Emergency], the definitions in this part, in addition to those in Minnesota Statutes, chapter 40, apply.

Subp. 1a. **Abstract.** "Abstract" means a written summary of the title history of a particular tract of land.

Subp. 2. **Agricultural crop production.** "Agricultural crop production" means an agricultural activity devoted to the production of horticultural, row, close grown, ~~rotation~~ pasture, or introduced hayland crops. "Production" includes, but is not limited to, tillage, planting, or harvesting operations.

Subp. 3. **Agricultural property land.** "Agricultural ~~property~~ land" means land ~~devoted to~~ used for farming, ~~exclusive of buildings.~~

Subp. 4. **Agricultural Stabilization and Conservation Service.** "Agricultural Stabilization and Conservation Service" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

Subp. 5. **Annual plan.** "Annual plan" means a plan prepared by the district under Minnesota Statutes, section 40.07, subdivision 9, and according to the most recent version of the Guidelines for Soil and Water Conservation District Comprehensive and Annual Plans published by the state board. That publication is subject to frequent change, is available at the State Law Library, and is incorporated by reference.

Subp. 6. **Approved practice.** "Approved practice" means a soil and water conservation practice that qualifies for RIM reserve program funding and that has been approved by the state board.

Subp. 7. **Authorized farm corporation.** "Authorized farm corporation" means a corporation meeting the following standards:

- A. it has no more than five shareholders;
- B. its shareholders, other than any estate, are natural persons;
- C. it has no more than one class of shares;
- D. its revenue from rent, royalties, dividends, interest, and annuities does not exceed 20 percent of its gross receipts; and
- E. shareholders holding a majority of its shares reside on the farm or are actively engaged in farming.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subp. 9. **Conservation easement, easement.** "Conservation easement" or "easement" means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include keeping or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property. Under the RIM reserve program, public access is controlled by the landowner.

Subp. 10. **Converted wetland.** "Converted wetland" means a wetland that has been legally drained, dredged, filled, leveled, or otherwise sufficiently manipulated ~~since approval of an easement~~ to render the land suitable for agricultural crop production.

Subp. 10a. **Crop history.** "Crop history" means a sequence of agricultural crop production that includes at least one of the following activities on an annual basis: tillage, planting, or harvesting.

Subp. 11. **Cropland.** "Cropland" means an area devoted to agricultural crop production.

Subp. 11a. **Deed.** "Deed" means a legal document by which title to property is transferred.

Subp. 12. **District.** "District" means a soil and water conservation district organized under Minnesota Statutes, chapter 40.

Subp. 13. **District board.** "District board" means the five supervisors of a district authorized to carry out the functions of the district.

Subp. 14. **District cooperator.** "District cooperator" means a landowner who has requested the assistance of a district in controlling conservation problems. The request must be formalized by the signing of a district cooperator's agreement ~~on a form provided by the state board~~ and approved by the district board.

Subp. 15. **District technician.** "District technician" means a district employee or other nonfederal employee assigned to the district who has expertise in the design and application of soil and water conservation practices.

Subp. 15a. **Encumbrance.** "Encumbrance" means anything that affects or limits the title to a property, such as outstanding mortgages, easement rights, or unpaid back taxes.

Subp. 16. **Enduring practice.** "Enduring practice" means a soil and water conservation practice that is designed for an effective life of ~~ten~~ 20 years or more.

Subp. 17. **Family farm.** "Family farm" means an unincorporated farming unit owned by one or more persons residing on the farm or actively engaging in farming.

## Emergency Rules

Subp. 18. **Family farm corporation.** "Family farm corporation" means a corporation founded to farm and to own agricultural land, the majority of the voting stock of which is held by and the majority of the stockholders of which are persons or the spouses of persons related to each other within the third degree of kindred according to the rules of civil law, at least one of the stockholders of which is residing on or actively operating the farm, and none of whose stockholders are corporations. A family farm corporation does not cease to qualify because of a devise or bequest of shares of voting stock.

Subp. 19. **Farm operation.** "Farm operation" means property owned or leased by the landowner that is associated with farming.

Subp. 20. **Farming.** "Farming" means the production of (1) agricultural products; (2) livestock or livestock products; (3) milk or milk products; or (4) fruit or other horticultural products. It does not include processing, refining, or packaging the products, providing spraying or harvesting services, or producing timber, forest products, or poultry products.

Subp. 21. **Field Office Technical Guide.** "Field Office Technical Guide" has the meaning given in part 8400.0100, subpart 15.

Subp. 22. **Fish and Wildlife Service.** "Fish and Wildlife Service" means the Fish and Wildlife Service of the United States Department of the Interior.

Subp. 23. **Hydric soil.** "Hydric soil" means a soil in its natural undrained condition that is saturated at or near the surface or flooded frequently during much of the growing season, and that can support hydrophytic vegetation. A list of hydric soils may be found in the Field Office Technical Guide.

Subp. 24. **Hydrophytic vegetation.** "Hydrophytic vegetation" means herbaceous or woody plants that grow in water, in wet or saturated soils, or in soils that are at least periodically deficient in oxygen as a result of excess water.

Subp. 25. **Inherently unproductive.** "Inherently unproductive" means that the soil properties of available water capacity, bulk density, and pH in the uppermost 100 centimeters (39 inches) of a soil, are present so that an unfavorable rooting environment exists for agronomic crops.

Subp. 26. **Landowner.** "Landowner" means ~~a Minnesota resident who owns or is a buyer under contract for deed, of land that qualifies as a family farm, a family farm corporation, or an authorized farm corporation~~ an individual, family farm, family farm corporation as defined in Minnesota Statutes, section 500.24, subdivision 2, paragraph (c), or authorized farm corporation as defined in section 500.24, subdivision 2, paragraph (d), who either owns eligible land or is purchasing eligible land under a contract for deed.

Subp. 26a. **Lien.** "Lien" means a legal claim on property used as security for debt.

Subp. 27. **Local emergency.** "Local emergency" means an emergency declared under Minnesota Statutes, section 12.29. The commissioner, after consulting with the commissioner of natural resources, must concur with a decision to declare a local emergency that affects easement provisions.

Subp. 28. **Marginal agricultural land.** "Marginal agricultural land" means land with cropland soils that are inherently unproductive for agricultural crop production ~~and~~ or subject to significant potential soil productivity loss from erosion. The state board shall provide districts with a list of ~~soils~~ soil mapping units indicative of marginal agricultural land. Districts may ~~add to or delete soils from~~ revise the list as necessary to reflect local soil characteristics. Changes must be approved by the state board.

Subp. 29. **Natural vegetation.** "Natural vegetation" means plant species including, but not limited to, grasses, trees, shrubs, or hydrophytic vegetation that form an area's noncultivated plant community, excluding the area immediately adjacent to buildings.

Subp. 30. **Nonproduction practice.** "Nonproduction practice" means a soil and water conservation practice that is installed or applied to control soil erosion or sedimentation, protect or improve water quality, or create or enhance wildlife habitat. Practices installed or applied primarily to bring land into production or to increase short-term productivity are not nonproduction practices.

Subp. 30a. **Pasture.** "Pasture" means a cultivated or interseeded area devoted to the production of forage consisting of introduced or native species and harvested by grazing. These areas are managed in a rotation of row crops or small grains and are considered to be in agricultural crop production. Areas of permanent pasture are excluded.

Subp. 30b. **Permanent cover.** "Permanent cover" means permanent vegetative cover as defined by part 8400.5600 [Emergency], subpart 1, and the water area created by a restored wetland.

Subp. 31. **Permanent pasture.** "Permanent pasture" means an area of forage species, harvested by grazing, that has not been cultivated within the last ten years. These areas are not considered to be in agricultural crop production.

Subp. 31a. **Proof of title.** "Proof of title" means a certified copy of a deed, updated abstract, attorney's opinion, or title insurance.

Subp. 31b. **Present value.** "Present value" means the value today of an amount that would have been received later, discounted at some discount or interest rate.

Subp. 32. **Protected water.** "Protected water" means water basins, water courses, and wetlands, as defined in Minnesota Statutes,

section 105.37, on the inventory of public waters and wetlands under Minnesota Statutes, section 105.391, subdivision 1, and identified on a protected waters and wetlands inventory map available in the county auditor's office.

Subp. 33. **Range.** "Range" means an area supporting an understory or periodic cover of herbaceous or shrubby plants suitable for grazing that has not been cultivated within the last ten years.

Subp. 34. [See Repealer.]

Subp. 34a. **Restored wetland.** "Restored wetland" means a converted wetland restored through legal and deliberate activities to a condition that meets the definition of a wetland in subpart 43.

Subp. 35. **RIM reserve program.** "RIM reserve program" means the reinvest in Minnesota resources conservation reserve program established in ~~Laws 1986, chapter 383, section 4~~ Minnesota Statutes, sections 40.41 to 40.45.

Subp. 36. [See Repealer.]

Subp. 37. **Screening committee.** "Screening committee" means a group established and chaired by a district, composed of representatives of private, state, and local organizations or clubs, and state and federal agencies with an interest in the RIM reserve program. A screening committee must include representatives of the Department of Natural Resources, the Pollution Control Agency, the Agricultural Stabilization and Conservation Service, the Fish and Wildlife Service, ~~and the Soil Conservation Service, and the Department of Transportation if windbreaks are to be installed adjacent to highway rights-of-way.~~

Subp. 38. **Significant potential soil productivity loss.** "Significant potential soil productivity loss" means that soil productivity loss due to erosion may occur in a short time unless management measures are initiated to control soil erosion. The method of calculation combines the rating of a soil as a rooting environment with landscape characteristics that represent erosion potential.

Subp. 39. **Soil and water conservation practice.** "Soil and water conservation practice" means structural or vegetative practices applied to land to control soil erosion, sediment, or other water pollutants.

Subp. 40. **Soil Conservation Service.** "Soil Conservation Service" means the Soil Conservation Service of the United States Department of Agriculture.

Subp. 41. **Soil mapping unit.** "Soil mapping unit" means a kind of soil or combination of soils shown at the scale of mapping for the defined purposes and objectives of a soil survey.

Subp. 42. **State board.** "State board" means the State Soil and Water Conservation Board created under Minnesota Statutes, section 40.03. Effective October 1, 1987, "state board" means the Board of Water and Soil Resources created by Laws 1987, chapter 358.

Subp. 42a. **Supporting practice.** "Supporting practice" means a soil and water conservation practice installed to improve or protect the establishment of permanent cover.

Subp. 42b. **Title.** "Title" means a legal document by which a person claims ownership to a particular piece of property.

Subp. 42c. **Title insurance.** "Title insurance" means financial protection against loss or damage resulting from defects in a title to a particular tract of land.

Subp. 43. **Wetland.** "Wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, or that periodically does support, a predominance of hydrophytic vegetation typically adapted for life in saturated soil conditions. ~~Wetland does not include converted wetlands as defined by subpart 40 and prohibited by part 8400.4900 [Emergency].~~

Subp. 44. **Windbreak.** "Windbreak" means a strip or belt of trees, shrubs, or grass barriers at least six rows deep and within 300 feet of the right-of-way of a highway.

#### **8400.3150 [Emergency] PURPOSE AND POLICY.**

It is the purpose of the RIM Reserve Program to keep certain marginal agricultural land out of crop production to protect soil and water quality and support fish and wildlife habitat. It is state policy to encourage the retirement of marginal, highly erodible land, particularly land adjacent to public waters and drainage systems, from crop production and to reestablish a cover of perennial vegetation.

#### **8400.3200 [Emergency] ESTABLISHING APPROVED ~~VEGETATIVE~~ PERMANENT COVER AND SUPPORTING PRACTICES.**

The state board, in consultation with the districts and state and federal agencies, shall develop a list of practices that are eligible for RIM reserve program funds and a schedule of maximum rates. The list is contained in parts 8400.5200 to 8400.5600 [Emergency] and the schedule in part 8400.4300 [Emergency]. Changes to the list and schedule must be made under Minnesota Statutes, chapter 14.

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### 8400.3300 [Emergency] CRITERIA FOR APPROVED PRACTICES.

Practices approved by the state board must be enduring in nature and have as their primary purpose the control of soil erosion or sedimentation, protection or improvement of water quality, or creation or improvement of fish and wildlife habitat. Practices cost-shared under this program must be designed for a minimum effective life of ~~ten~~ 20 years, be nonproduction practices, and have specifications providing for the use of plant species and construction techniques that provide quality fish and wildlife benefits.

### 8400.3400 [Emergency] ELIGIBLE LAND.

Land may be enrolled in the RIM reserve program if the land:

A. is marginal agricultural land; ~~or;~~

B. is adjacent to marginal agricultural land that is being enrolled if enrollment of the adjacent land is beneficial to resource protection or necessary for efficient recording of the land description and if at least 50 percent of the total proposed acreage is marginal agricultural land;

C. consists of a converted wetland and cropland adjacent to the converted wetland to the extend of up to four acres of cropland for each acre of wetland restored; or

D. is land that with a windbreak would be beneficial to resource protection.

In addition, enrolled land must have all of the following characteristics:

~~B. was in agricultural crop production or rotation pasture (1) a crop history~~ for at least two years during the period 1981 to 1985;

~~C. (2) was owned by the applicant landowner on January 1, 1985, or for an application made on or after January 1, 1988, was owned by the applicant landowner, or a parent or other blood relative of the landowner, for at least three years before the date of application;~~

~~D. (3) is at least five acres in size, except for a windbreak, or is a whole field as defined by the Agricultural Stabilization and Conservation Service;~~

~~E. (4) is not currently set-aside, enrolled, or diverted under another federal or state government program including, but not limited to, federal conservation reserve, federal production adjustment set-aside, or state or federal water bank; and~~

~~F. (5) is physically possible to crop; and~~

~~G. as enrolled does not exceed 20 percent of the landowner's total acreage of agricultural property in the state.~~

The enrolled land of a landowner may not exceed 20 percent of the landowner's total agricultural land acreage in the state, if the landowner owns at least 200 acres of agricultural land as defined by Minnesota Statutes, section 500.24, subdivision 2. If a landowner owns less than 200 acres of agricultural land, the amount that may be enrolled in the conservation reserve is:

(a) all agricultural land owned, if 20 acres or less; or

(b) if the total agricultural land owned is more than 20 acres but less than 200 acres, 20 acres plus ten percent of the balance of the agricultural land.

In selecting land for enrollment in the program, highest priority must be given to permanent easements that are consistent with the purposes stated in part 8400.3150.

### 8400.3500 [Emergency] CONSERVATION EASEMENTS.

A district board may ~~acquire~~ act, on behalf of the commissioner and state, to acquire conservation easements on eligible land. An easement may be permanent or for ~~ten~~ not less than 20 years. By signing an agreement easement, a landowner agrees:

A. to convey to the state a conservation easement that is not subject to any prior title, lien, or encumbrance;

B. ~~to seed the land subject to the conservation easement contained in the agreement, to establish and maintain permanent cover of either a grass-legume mixture or native grasses for the term of the easement, at seeding rates and other required practices on the land subject to the easement of a type determined by the state board, or to plant trees or install supporting practices required due to site conditions for soil and water conservation or wildlife management~~ district board and described in parts 8400.5200 to 8400.5600 [Emergency];

C. to restore any converted wetland and to convey to the state a permanent easement for the restored wetland area;

D. that other noncrop or permanent pasture land supporting natural vegetation owned or leased as part of the same farm operation during at the term of the easement time of application will not be converted to agricultural crop production or pasture as specified in part 8400.4900 [Emergency];

~~D. E. to the enforcement of the easement terms and maintenance provisions in part 8400.4700 [Emergency];~~



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~~E. F.~~ F. not to alter wildlife habitat and other natural features of the land, unless specifically approved by the ~~state board~~ commissioner;

~~F. G.~~ G. to refrain from agricultural crop production, unless specifically approved by the district for wildlife management purposes such as food plots;

~~G. H.~~ H. to prohibit grazing of livestock unless approved by the commissioner, after consultation with the commissioner of natural resources, in the case of severe drought or a local emergency;

~~H. I.~~ I. to prohibit spraying with chemicals or mowing, except as necessary to comply with state and county noxious weed control laws, for emergency control of pests necessary to protect public health, or to maintain permanent vegetative cover as approved by the district; ~~and~~

~~I. J.~~ J. to allow maintenance of public drainage systems. The activities must not damage the conservation purpose of the easement area. In addition, any authorization granted by the ~~district commissioner~~ must provide that the easement area be restored to the condition required by the terms of the conservation easement; ~~and~~

K. that easement duration may be lengthened during its effective term through mutual agreement with the commissioners of agriculture and natural resources if they determine that the changes effectuate the purpose of the program or facilitate its administration.

### 8400.3600 [Emergency] ALLOCATION OF FUNDS.

The state board shall ~~authorize~~ allot funds to a district board ~~to obligate funds~~ based on the following factors:

A. the extent of marginal agricultural land in the district; ~~and~~

B. the potential for restoring wetlands;

C. the need for windbreaks within 300 feet of a highway right-of-way; and

D. the need for soil erosion or sediment control, protection or improvement of water quality, or improvement of fish and wildlife habitat.

The state board may also consider the expressed interest of landowners and the readiness of the district board and cooperating groups and agencies to implement the program.

The state board may increase or decrease its obligation as necessary to maximize the use of funds among districts, and may require enrollment periods.

### 8400.3700 [Emergency] ADMINISTRATION OF FUNDS.

Following authorization to obligate funds from the state board, a district ~~board~~ is responsible for administration of the funds in accordance with Minnesota Statutes, chapter 40 and other applicable laws. The district board may make decisions concerning use of these funds in accordance with parts 8400.3000 to 8400.5600 [Emergency].

As a condition to participating in the program, the district ~~board~~ shall ensure compliance with the maintenance provisions of part 8400.4700 [Emergency] and Minnesota Statutes, chapter 40 by monitoring easements in a manner prescribed by the state board.

Before considering any requests from landowners, the district board shall establish a screening committee. Then, in cooperation with the screening committee, local priority areas must be established. In addition, administrative procedures necessary to efficiently implement the program must be developed. Priority areas must be based on the following factors:

A. the extent of high priority erosion or water quality problems in the district as outlined in the district comprehensive and annual plans;

B. the potential of the land for fish and wildlife production, reducing erosion, and protecting water quality;

C. advice of technical experts familiar with the district;

D. priorities as established by the district ~~board~~ in consultation with other members of the screening committee;

E. current programs administered by the Agricultural Stabilization and Conservation Service, the Fish and Wildlife Service, and the Department of Natural Resources; and

F. RIM reserve program funds available.

### 8400.3800 [Emergency] APPLICATION FOR FUNDS BY LANDOWNERS.

Landowners interested in participating in the RIM reserve program shall apply to the districts on forms provided by the state board and available from the district office. An application must be filled out in its entirety. A district technician is then responsible for making a determination of easement eligibility and a cost estimate to establish permanent ~~vegetative cover and, restore wetlands,~~ and, if necessary, supporting practices. Actual determination of need and a cost estimate may be done by ~~district-approved district~~

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board-approved representatives from other agencies. Additional information that may be required by the district board in its consideration of the application must be included.

### 8400.3900 [Emergency] LAND IN MORE THAN ONE DISTRICT.

If a request involves land in more than one district, application must be made to each district containing proposed land. The affected districts must cooperate to ensure a consistent and timely review of the proposed lands.

### 8400.4000 [Emergency] CRITERIA FOR DISTRICT BOARD REVIEW.

The criteria for district board review are listed in this part.

A. The applicant must be a district cooperator.

B. The practices needed to establish permanent ~~vegetative~~ cover or restore wetlands must be on the list of approved practices.

C. The primary purpose of the requested easement must be the control of soil erosion or sedimentation, the protection or improvement of water quality, or the improvement of fish and wildlife habitat. In cases where the primary purpose is questionable, the district board in cooperation with the screening committee shall make a determination of the acceptability of the application.

D. The requested easement and vegetative practices must be consistent with local plans and priorities.

E. The easement must be maintained by the landowner, who is responsible for operation and maintenance of vegetative and other supporting practices applied under this program.

F. The practice must comply with the technical requirements of the Field Office Technical Guide. Technical review must be completed by a district technician or Soil Conservation Service employee who has applicable job approval authority or by ~~district-approved~~ district board-approved representatives from other agencies.

### 8400.4100 [Emergency] DISTRICT APPROVAL.

After completion of a priority determination and cost estimate, the district board shall either approve or deny the application. If it is approved, the district board shall instruct the chair or acting chair to sign the application. Once it is signed, the application becomes an agreement between the state district and landowner and serves as the authorization to begin establishing ~~vegetative permanent~~ cover and, if required, other supporting practices. ~~In addition, district approval obligates payment for the easement and vegetative cover establishment, provided the landowner complies with parts 8400.3000 to 8400.5600 [Emergency].~~ Practices begun before district board approval are ineligible for financial assistance. The requirements for ~~vegetative permanent~~ cover establishment, wetland restoration, and maintenance must be specified in a plan prepared by the district technician or ~~district-approved~~ district board-approved representatives from other agencies. This permanent cover plan, once approved by the landowner and district board, becomes a part of the easement. Changes in any provisions of the plan are subject to review and approval by the landowner and district board. If an application is denied, the district board shall notify the landowner in writing within 30 days after district board action of the reason for denial of the application. ~~Changes in any provisions of the agreement are subject to review and approval by the district board.~~

After district board approval, a landowner may be required to provide proof of title of the land enrolled in the following manner:

A. for easements less than \$5,000 in value, a certified copy of the deed may be required at landowner expense;

B. for easements between \$5,000 and \$20,000 in value, an updated abstract may be required at landowner expense;

C. for easements over \$20,000 in value, title insurance may be obtained at state expense; and

D. an updated abstract may be required at landowner expense by the state regardless of easement value if questions arise during title review.

### 8400.4200 [Emergency] CONSERVATION EASEMENT PAYMENTS.

After approval of an application, easement documents provided by the state board must be completed by the district. Once the easement is signed by the landowner, remaining easement documents must be completed within 120 days. If not, the easement becomes null and void unless extended through mutual agreement of the parties. Also, upon signing, the landowner is obligated to comply with all easement conditions including the establishment of permanent cover as specified in parts 8400.3500 and 8400.4100 [Emergency]. Once completed recorded on the land title, the easement is considered conveyed. Upon conveyance, the following easement payments must be made: according to the following schedule.

A. for a permanent easement, 70 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue when the easement is conveyed; and

B. for a ten-year easement, 90 percent of the present value of the average of the acceptable bids for the Federal Conservation Reserve Program in the relevant geographic area and on bids made immediately before the easement is conveyed. The commissioner

shall establish, at least annually, the discount rate to be used for calculating present value. If federal bid figures have not been determined for the area or the federal program has been discontinued, the rate must be determined by the state board.

A. For limited duration easements not less than 20 years in length, payments are based on 70 percent of the present value of average cash rent for the county in which the parcel is located.

B. For permanent easements, payments are based on 100 percent of the present value of average cash rent for the county in which the parcel is located.

C. Parcels involving the restoration of converted wetlands or the establishment of a windbreak within 300 feet of a highway right-of-way must receive an additional payment of ten percent of the present value of average cash rent.

The commissioner shall establish, at least annually, the discount rate to be used for calculating present value. Average cash rent figures are based on an annual survey conducted by the Minnesota Department of Revenue in cooperation with local assessors.

Payments will be a one-time lump sum amount unless the landowner requests up to four equal annual installments.

#### **8400.4300 [Emergency] ESTABLISHMENT OF VEGETATIVE PERMANENT COVER AND SUPPORTING PRACTICES.**

**Subpart 1. Installation of practices.** Establishment of vegetative permanent cover and supporting practices must be monitored by the district board to ensure compliance with part 8400.4000 [Emergency], item F. Upon completion, a district technician shall certify whether or not the practice has been satisfactorily performed, including certification that the practice meets the requirements of part 8400.4000 [Emergency], item F. No certification may be made until all specifications have been satisfied. ~~Exceptions must be in accordance with subpart 4.~~ Upon certification of completion, the landowner shall contact the district for payment and present documentation of the costs incurred in the installation of the practice in the form of receipts or invoices.

**Subp. 2. In-kind services.** In-kind services provided by the landowner including, but not limited to, earthwork, seedbed preparation, and seeding, may be credited to the landowner's share of the total cost of the practice. The district board shall determine whether charges for in-kind services are practical and reasonable.

**Subp. 3. Actual cost differing from estimated cost.** If the actual cost of a practice exceeds the RIM reserve estimated cost, the district board may only authorize payment of the approved rate unless an amendment to the vegetative cover agreement has been approved. Because of extreme circumstances including, but not limited to, weather or unforeseen geologic conditions, it may be desirable to increase the estimated cost or postpone the starting or completion date of the practice. These changes must be approved by the district board in advance of completion of the work with an amendment to the vegetative cover agreement covering the changes. Amendments may not be authorized for providing final payments in excess of the maximum rate established in subpart 7. Amendments may not be authorized after final approval of payment has been made on the original agreement. If the actual cost is less than the estimated cost RIM reserve estimate, the district shall only authorize payment of the actual cost of the practice. The district board shall review the receipts or invoices provided by the landowner to determine the actual cost of the practice. If the district board determines that the claims are practical and reasonable, it shall authorize payment. Payments may not exceed the rates established in subpart 7.4. If the district board determines that certain claims are not justified, it shall notify the landowner in writing of the unjustified claims within 30 days. The district board shall then authorize the issuance of a check for the justified claims.

**Subp. 4. Partial payment.** If weather, unanticipated circumstances beyond the control of the land occupier, or management considerations such as dormant seedings force postponement of certification of completion, the state board or its authorized representative may authorize a district board to issue a partial payment for the work that has been completed. The following conditions must be met before the state board or its authorized representative will consider authorizing a partial payment:

- A. The anticipated completion date will not cause unreasonable delays in establishing vegetative cover.
- B. The completed work meets the requirements of part 8400.4000 [Emergency], item F.
- C. The state board's authorized representative must review the work and concur in the payment decision.

**Subp. 5. Payment conditions.** If the state board or its authorized representative authorizes a partial payment under subpart 4, the following conditions apply:

- A. Payment rates must comply with subpart 7.
- B. The balance of the project must be paid by the district board upon the satisfactory completion of the total project.
- C. Expenses incurred in correcting damage caused to the project by virtue of its incompleteness must be borne by the landowner.
- D. Landowners receiving partial payments must complete the project within a time considered reasonable by the district board.

E. Landowners not completing partially-paid projects are in violation of part 8400.4700 [Emergency] and must be directed to return the amount of financial assistance received plus interest.

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F. Partial payment authorizations must not be construed as precedent-setting. A request will be considered by the state board or its authorized representative on its merits.

Subp. 6. ~~Denial.~~ If the state board or its authorized representative denies a request for partial payment under subpart 4, the district board must be notified within 30 days of the reasons for denial of the request.

Subp. 7. ~~4.~~ **Payments for establishment of vegetative permanent cover.** After the easement has been conveyed and certification by an assigned district technician that permanent vegetative cover is established, the district board shall notify the state board to make the following payments to the landowner:

A. to establish the permanent cover or supporting practices required by the ~~agreement~~, the actual cost up to permanent cover plan, up to 75 percent of the total eligible cost not to exceed \$75 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed \$100 per acre for permanent easements; and

B. for the cost of planting trees required by the ~~agreement~~, the actual cost up to \$75 per acre; permanent cover plan, up to 75 percent of total eligible cost not to exceed \$200 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed \$300 per acre for permanent easements.

Payments for establishing permanent cover, trees, or other improvements are limited to the actual cost, up to \$75 per acre. Supporting practices must be required by the ~~vegetative permanent cover agreement plan~~. These include practices or components of practices listed in parts 8400.5200 to 8400.5600 [Emergency]. Supporting practices must be installed in conjunction with permanent cover or trees. If trees are combined with a another cover practice, payments may increase to a the combined actual cost up to \$150 per acre total eligible cost specified in items A and B, or up to \$75 \$100 per acre each for trees and cover and \$300 per acre for trees if a permanent easement and \$75 per acre for cover and \$200 per acre for trees if a limited duration easement.

RIM reserve payments may be supplemented by funds from other programs or organizations, including sportsmen's groups or state or federal cost-share programs. Requirements for supplementing payments must be determined by the contributing agency or group.

### 8400.4400 [Emergency] MAXIMUM PAYMENT.

The state board may not pay more than \$50,000 ~~annually~~ to a landowner for ~~the landowner's vegetative permanent cover agreements~~ and conservation easements. The district shall record the easement document with the county recorder.

### 8400.4500 [Emergency] DISTRICT RECORDS.

The district shall maintain a current ledger of ~~vegetative cover agreements~~ and easements on forms provided by the state board. The ledger must specify the landowners with whom the district has developed ~~agreements easements~~, the soil mapping units of enrolled land, the ~~vegetative permanent cover and supporting practices~~ involved, the status of ~~vegetative permanent cover~~ establishment, the total of funds obligated and spent, the size and type of easements, and their effective date. Recording must be done, to the extent possible, in a manner compatible with the needs of cooperating agencies and groups. In addition, the location of easements must be recorded on base maps provided by the Land Management Information Center of the State Planning Agency to facilitate entry into a state data base.

### 8400.4600 [Emergency] EASEMENT RENEWAL.

When a ~~ten-year~~ conservation easement expires, a new permanent or ~~ten-year~~ limited term conservation easement may be acquired by written concurrence of the ~~district commissioner~~ and the landowner. The district may recommend that the state board adjust payment rates as a result of renewing a ten-year conservation easement only after examining the condition of the established cover, supporting practices, and land values.

### 8400.4700 [Emergency] MAINTENANCE.

A landowner is responsible for operation and maintenance of vegetative permanent cover and supporting practices applied under this program and ensuring that easement restrictions in parts 8400.3500 [Emergency] and 8400.4900 [Emergency] are followed to ensure that the easements conservation objective is met and the effective life of ~~ten~~ 20 or more years is achieved.

Should the landowner fail to install or maintain the practices or comply with easement restrictions during their effective life, the landowner may be subject to:

A. damages up to the amount of financial assistance received for practice installation permanent cover, supporting practices, and easement payment plus interest accrued from the date of each nonmaintenance determination;

B. a mandatory court-imposed injunction; or

C. other actions directed at correcting the maintenance violation. The district board, in consultation with the state board and legal counsel, shall determine how maintenance violations must be corrected. Easements remain in effect even if maintenance violations have occurred.

The landowner is not liable for financial assistance received if the failure was caused by reasons beyond the landowner's control; in those instances, the district board may authorize payment for the repair. Payments for repair must comply with part 8400.4300 [Emergency]. In no case may a district board provide financial assistance to a landowner for the reapplication of ~~vegetative~~ permanent cover or supporting practices that were removed or altered by the landowner during their effective life or failed due to improper maintenance.

**8400.4800 [Emergency] MONITORING.**

The state board may require reports from the district to monitor the progress of the RIM reserve program and the use of funds. The reports must be on forms provided by the state board.

**8400.4900 [Emergency] NONCROPLAND CONVERSION.**

~~From approval of vegetative cover agreements until the end of the easement,~~ Land supporting natural vegetation, including, but not limited to, trees, shrubs, permanent pasture, range, or wetland, at the time of easement application must not be converted to cropland. This restriction applies to all land owned or leased as part of the landowner's farm operation.

**8400.5000 [Emergency] APPEALS.**

If a landowner feels unfairly treated, the landowner may request that the district board review its decision. Should the landowner and the district board reach an impasse, the landowner may petition in writing for a hearing before the state board. If it grants the hearing, which must be informal, the state board or a referee appointed by it shall hear all testimony offered, and shall accept written testimony for ten days after the hearing. The referee, if one is used, shall report the findings and recommendation to the state board, which shall within 60 days of the hearing date make its decision on the appeal, upholding, reversing, or amending the decision of the district board.

**8400.5100 [Emergency] VARIANCES.**

If a district board feels that a particular requirement of part 8400.3400 [Emergency] prevents a RIM reserve program application from being funded, a request for a variance may be filed with the director of the state board. The request must be in writing and contain:

- A. the name and address of the district board making the request and the signature of the district chair;
- B. the nature of the variance being sought, including an identification of the applicable rule from which the variance is sought, the time period for which it is sought, and the reason for seeking the variance;
- C. a statement of alternatives for dealing with the funding of the affected project if the variance is not granted; and
- D. a statement of the effects on applicable natural resources and the public if the variance is granted.

Variance requests must be submitted to the director of the state board at least 30 days before the state board meeting at which the variance is requested to be heard. Within 45 days after the meeting, the state board must approve or deny the variance request and provide written notification of the decision to the applicant. A variance must not be granted if it is in conflict with any statute. The state board may grant a variance upon conditions it prescribes.

If a variance has been granted by the state board, the district board holding the variance may file with the state board at any time a written request for modification or amendment of the variance. The request for modification or amendment, and the state board's consideration of the request, must comply with this part.

**8400.5200 [Emergency] APPROVED PRACTICE: STRUCTURES.**

Subpart 1. **Definition.** For the purpose of this part, "structure" includes, but is not limited to, floodwater retarding dams, levees, or drain tile plugs designed to provide temporary storage of floodwater, control the release rate of water providing downstream channel stability, impound water, or restore or create wetland areas. ~~Structures are supporting practices.~~

Subp. 2. **Purpose.** The purpose of structures is to permit the establishment of vegetative cover, control soil erosion, protect or improve water quality, or create or improve wildlife habitat. An erosion control structure may provide multiple benefits including, but not limited to, recreation, flood control, and channel stability.

Subp. 3. **Applicability.** Structures may be used on enrolled lands where they are necessary to permit establishment of vegetative cover, for the control of soil erosion, water quality protection or improvement, or creation or enhancement of wildlife habitat. Structures may also be installed on nonenrolled lands if necessary to enhance or protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

- A. only for the construction of structures that provide for reduction of soil erosion, water quality protection or improvement, or creation or enhancement of wildlife habitat;
- B. for permanent fencing of a structure as determined by the district board;

## Emergency Rules

~~C.~~ for tree and shrub plantings adjacent to the structure and seeding necessary to stabilize the structure and adjacent critical areas, including, when possible, the use of those species that provide quality wildlife habitat;

~~D.~~ C. for structures that provide multiple benefits if the primary benefit is soil erosion control, water quality protection or improvement, or creation or improvement of wildlife habitat; and

~~E.~~ D. for temporary materials and seedings necessary to properly stabilize the structure during construction.

### 8400.5300 [Emergency] APPROVED PRACTICE: DIVERSIONS.

Subpart 1. **Definition.** For purposes of this part, "diversion" means a channel with a supporting ridge on the lower side constructed across the slope. ~~Diversions are supporting practices.~~

Subp. 2. **Purpose.** The purpose of a diversion is to permit the establishment of vegetative cover or divert water away from erosive areas or areas that pose a threat to water quality to areas where it can be used or disposed of safely. Diversions may provide additional benefit to wildlife.

Subp. 3. **Applicability.** A diversion may be used where:

- A. runoff from higher areas is eroding enrolled lands or is needed to establish vegetative cover; or
- B. surface and shallow subsurface flow is damaging sloping enrolled lands or contaminating ground or surface water.

Diversions may be installed on nonenrolled lands if necessary to enhance or protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

- A. for tile systems necessary for the establishment and operation of diversions;
- B. for construction necessary to properly establish diversions including earthwork, materials, and seedings; and
- C. for temporary materials and seedings necessary to properly stabilize diversions during construction; and
- ~~D. for permanent fencing of diversions as determined by the district board.~~

### 8400.5400 [Emergency] APPROVED PRACTICE: STORMWATER CONTROL SYSTEMS.

Subpart 1. **Definition.** For purposes of this part, "stormwater control system" means a practice or system of practices including, but not limited to, grassed waterways and grade stabilization structures installed to convey storm runoff to a constructed or natural outlet in a nonerosive manner. This practice does not apply when the primary purpose is drainage to expand or improve crop production or making the cropping system more convenient. ~~Stormwater control systems are supporting practices.~~

Subp. 2. **Purpose.** The purpose of a stormwater control system is to permit the establishment of vegetative cover, provide a means of regulating or removing runoff to control erosion, or protect or improve water quality. Additional benefit may be provided through creation of wildlife habitat.

Subp. 3. **Applicability.** A stormwater control system may be used on enrolled lands by using vegetative or structural measures for control of erosion or protection or improvement of water quality. Stormwater control systems may also be installed on nonenrolled lands if necessary to protect enrolled lands.

Subp. 4. **Policies.** Funding is authorized:

- A. for the construction of practices required in a complete stormwater control system, including, but not limited to, a lined waterway or outlet, detention ponds, permanent sod cover, and permanent vegetation including trees, shrubs, and grasses;
- B. for tile systems necessary for the establishment and operation of stormwater control systems; and
- C. for temporary materials and seedings necessary to properly stabilize a stormwater control system during construction; and
- ~~D. for permanent fencing of stormwater control systems as determined by the district board.~~

### 8400.5500 [Emergency] APPROVED PRACTICE: FIELD WINDBREAKS.

Subpart 1. **Definitions.** For purposes of this part, "field windbreak" means a strip or belt of trees ~~or~~ shrubs, or grass barriers established within ~~or a field,~~ adjacent to a field, or within 300 feet of a highway right-of-way.

Subp. 2. **Purpose.** The primary purpose of a field windbreak is to create wildlife habitat or reduce wind erosion. Additional benefits may be the ~~creation of wildlife habitat, increased moisture conservation by~~ controlling snow deposition, and beautification and enhancement of the landscape.

Subp. 3. **Applicability.** Field Windbreaks may be used in or around ~~open fields or~~ adjacent to highway rights-of-way that need ~~protection against wind erosion.~~ Additional benefits may be realized from the creation of additional wildlife habitat.

Subp. 4. **Policies.** Funding is authorized:

A. for ~~field~~ windbreaks if the inter-windbreak or non-windbreak area is established in permanent ~~vegetative~~ cover at the time the windbreak is established; and

B. for site preparation, planting materials, planting, chemicals for weed control, and other applicable costs necessary to establish a ~~field~~ windbreak.

The landowner is responsible for controlling competitive vegetation for two years following planting and must bear the cost of control. Tree planting must not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage systems.

**8400.5600 [Emergency] APPROVED PRACTICE: ESTABLISHMENT OF PERMANENT VEGETATIVE COVER.**

Subpart 1. **Definition.** For purposes of this part, "permanent vegetative cover" means planting permanent vegetation on enrolled lands, including trees, shrubs, vines, grasses, and legumes.

Subp. 2. **Purpose.** The purpose of permanent vegetative cover is to control soil erosion, protect or improve water quality, or create or improve wildlife habitat.

Subp. 3. **Applicability.** Permanent vegetative cover may be used on enrolled lands if vegetation is needed to control soil erosion, protect or improve water quality, or create or improve wildlife habitat.

Subp. 4. **Policies.** Funding is authorized for:

A. earthwork, materials, seed, and seedlings, and other associated costs necessary to stabilize the area; and

B. temporary materials and seedlings necessary to stabilize the area during construction; ~~and~~

~~C. permanent fencing of the area as determined by the district board.~~

Subp. 5. **Conflicts.** Tree planting must not conflict with existing electrical lines, telephone lines, rights-of-way, or drainage systems.

**REPEALER.** Part 8400.3100 [Emergency], subparts 34 and 36, are repealed.

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## Executive Orders

### **Order #87-17 Prescribing the Manual for Military Justice State of Minnesota, 1987 Rescinding Executive Order #83-28**

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby prescribe the following manual for military justice, to be designated as "Manual for Military Justice, State of Minnesota, 1987."

This manual shall be in force and effect in the state military forces from this date forward with respect to all non-judicial punishment and court-martial processes.

Executive Order 83-28, dated June 14, 1983, and the "Manual for Military Justice, State of Minnesota, 1983" prescribed therein are hereby rescinded.

Pursuant to *Minnesota Statutes*, Section 4.035, subd. 2, this Order shall be effective fifteen (15) days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with *Minnesota Statutes*, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I have set my hand this thirteenth day of July, 1987.



Rudy Perpich  
Governor

# Official Notices

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

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

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## 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:

- Cosmetologist
- Sewer District
- Boat Rental

The MJUA and MAP are activated to provide assistance to the above classes of business for a period of 180 days following the publication of this notice. A public hearing will be held, for the purpose of determining whether activation should continue beyond 180 days, at the Office of Administrative Hearings, 310 4th Avenue South, 4th Floor Summit Bank Building, Minneapolis, Minnesota 55415 on Sept. 15, 1987 at 9:30 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*, sections 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 Erickson, 310 4th Avenue South, 4th Floor Summit Bank Building, Minneapolis, Minnesota 55415, telephone (612) 341-7606. The authority for this proceeding is found in Chapter 62I of *Minnesota Statutes*, specifically sections 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 August 25, 1987, at the Office of Administrative Hearings, 310 4th Avenue South, 4th Floor Summit Bank Building, Minneapolis, Minnesota 55415.

*Minnesota Statutes*, Chapter 62I, which governs 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 62I 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* Parts 1400.5100-1400.8400).

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

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



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

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

Dated: 15 July 1987

Michael A. Hatch  
Commissioner of Commerce

#### **62I.21 ACTIVATION OF MARKET ASSISTANCE PLAN AND JOINT UNDERWRITING ASSOCIATION.**

At any time the commissioner of commerce deems it necessary to provide assistance with respect to the placement of general liability insurance coverage on Minnesota risks for a class of business, the commissioner shall by notice in the *State Register* activate the market assistance plan and the joint underwriting association. The plan and association are activated for a period of 180 days from publication of the notice. At the same time the notice is published, the commissioner shall prepare a written petition requesting that a hearing be held to determine whether activation of the market assistance plan and the joint underwriting association is necessary beyond the 180-day period. The hearing must be held in accordance with section 62I.22. The commissioner by order shall deactivate a market assistance program and the joint underwriting association at any time the commissioner finds that the market assistance program and the joint underwriting association are not necessary.

#### **62I.22 HEARING.**

**Subdivision 1. ADMINISTRATIVE LAW JUDGE.** The commissioner shall forward a copy of the petition to activate the market assistance plan and the joint underwriting association with respect to a class of business to the chief administrative law judge. The chief administrative law judge shall, within three business days of receipt of the copy of the petition, set a hearing date, assign an administrative law judge to hear the matter, and notify the commissioner of the hearing date and administrative law judge assigned to the matter. The hearing date must be no less than 60 days nor more than 90 days from the date of receipt of the petition by the chief administrative law judge.

**Subd. 2. NOTICE.** The commissioner of commerce shall publish notice of the hearing in the *State Register* at least 30 days before the hearing date. The notice should be that used for rulemaking under chapter 14. Approval by the administrative law judge of the notice prior to publication is not required.

**Subd. 3. CONTESTED CASE; REPORT.** The hearing and all matters after the hearing are a contested case under chapter 14. Within 45 days from the commencement of the hearing and within 15 days of the completion of the hearing the administrative law judge shall submit a report to the commissioner of commerce. The parties, or the administrative law judge, if the parties cannot agree, shall adjust all time requirements under the contested case procedure to conform with the 45-day requirement.

**Subd. 4. DECISION.** The commissioner shall make a decision within ten days of the receipt of the administrative law judge's report.

**Subd. 5. WAIVER OR MODIFICATION.** If all parties to the proceeding agree, any of the requirements of this section may be waived or modified.

## **Emergency Response Commission**

### **Announcement of Establishment of Local Emergency Planning District**

Notice is hereby given that effective July 17, 1987, the Emergency Response Commission establishes one local emergency planning district for the state of Minnesota until July 1, 1988, at which time the state would be divided into seven districts.

The Commission is seeking applicants representing community groups, broadcast and print media, and elected state and local officials for appointment to the Local Emergency Planning Committee.

The Local Emergency Planning Committee will be responsible for implementing procedures for reviewing emergency plans and for handling information requests as required by Title III (Emergency Planning and Community Right-to-Know Act) of the Superfund Amendments and Authorization Act of 1986 (P.L. 99-499). Application forms are available from the following:

Minnesota Emergency Response Commission  
Division of Emergency Services  
Room B-5 State Capitol Building  
St. Paul, MN 55155

Applications will be accepted until August 17, 1987.

## Department of Health

### Maternal and Child Health Division

#### **Notice of Solicitation of Outside Information and Opinions Regarding the Fiscal Year 1988 Minnesota State Plan for the Special Supplemental Food Program for Women, Infants and Children (WIC Program) carried out by the United States Department of Agriculture**

Notice is hereby given that the Minnesota Department of Health is seeking information and opinions from sources outside the department in the preparation of the Fiscal Year 1988 State Plan for the Special Supplemental Food Program for Women, Infants and Children (WIC Program). Copies of the draft Plan are available for public inspection by telephoning (612) 623-5266.

Interested persons or groups may submit data or views on the subject matter of the Plan in writing or orally. Written statements should be addressed to Pati Maier, Minnesota Department of Health, 717 S.E. Delaware Street, P.O. Box 9441, Minneapolis, MN 55440. Oral statements will be received during regular business hours over the telephone at the above telephone number and in person at the above address.

All statements of information and opinions shall be accepted until 4:30 p.m., August 12, 1987. Any written material received by the Minnesota Department of Health shall become part of the Plan record subject to inspection by the United States Department of Agriculture.

## Department of Jobs and Training

### Jobs, Opportunities and Insurance Division

#### **Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to the Rules Relating to Unemployment Compensation Hearings Including the Impact of the Rules on Small Businesses**

Notice is hereby given that the State Department of Jobs and Training is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the amendments to the rules relating to the hearings conducted by the Appellate Office. The rule amendments are being proposed as required by *Minnesota Statutes*, § 268.10, subdivision 6, which provides that the conduct of unemployment benefit hearings and appeals shall be in accordance with rules adopted by the commissioner, and as authorized by *Minnesota Statutes*, § 268.021, which provides that the commissioner is authorized to adopt rules in accordance with chapter 14 with respect to programs the commissioner administers under chapter 268.

Outside opinion is also being solicited as to how those rules will affect small businesses as defined by *Minnesota Statutes*, section 14.115, subdivision 1.

The State Department of Jobs and Training requests information and opinions concerning the proposed rule amendments. Interested persons or groups may submit data or views in writing or orally. Written statements should be addressed to:

William Brown, Director  
Appellate Office  
Jobs, Opportunities and Insurance Division  
390 North Robert Street  
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at 296-3749 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing of Intent to Adopt Rules without a Public Hearing is published in the *State Register*. Any written material received by the State Department of Jobs and Training shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

The rules amendments the department plans to propose follow this notice.

Dated: 27 July 1987

Joe Samargia, Commissioner  
Department of Jobs and  
Training

## **Department of Jobs and Training**

### **Proposed Permanent Rules Relating to Unemployment Compensation; Hearings**

#### **Rules as Proposed (all new material)**

##### **3310.2901 SCOPE AND PURPOSE.**

Parts 3310.2901 to 3310.2929 establish procedures for hearings conducted by department referees on the appeal of department determinations about the validity of claims for unemployment benefits referred to in part 3310.2700, subpart 5, determinations pertaining to eligibility or disqualification from unemployment benefits referred to in part 3310.2800, charges to employers' accounts and contribution rate assignments under Minnesota Statutes, section 268.06, subdivision 20, determinations on an employing unit's liability to pay unemployment contributions under Minnesota Statutes, section 268.12, subdivision 13, determinations on the erroneous or fraudulent payment of unemployment benefits under Minnesota Statutes, section 268.18, and all other appeals which are decided by referees of the appellate office either by law or rule.

##### **3310.2902 DEFINITIONS.**

Subpart 1. **Scope.** For purposes of parts 3310.2901 to 3310.2929, the terms defined in this part have the meanings given them.

Subp. 2. **Appellate office.** "Appellate office" means the appellate office of the Department of Jobs and Training.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Department of Jobs and Training or a designee.

Subp. 4. **Party.** "Party" means any unemployment insurance claimant, employer, or authorized representative of the claimant or employer whose legal rights, duties, or privileges will be directly determined in a hearing.

##### **3310.2903 METHODS OF FILING APPEALS.**

Appeals may be filed in person at any unemployment insurance office of the department or through the United States mail. Appeals shall be filed as prescribed in Minnesota Statutes, section 268.04, subdivision 15.

##### **3310.2904 CONTENTS OF APPEAL DOCUMENTS.**

An appeal must be in writing, be signed by the appealing party or an authorized representative, and contain the following:

A. the name, address, and social security number of the claimant if the appeal involves a claim for unemployment benefits, and the unemployment tax identification number of the employer if the appeal involves an unemployment contribution liability or rate determination;

B. reference to the determination or order from which the appeal is taken; and

C. the fact that an appeal from that determination is being made. If the term "Appeal" is not used and if the party's statement indicates, in its meaning, that a review of the determination is desired, this shall be sufficient to constitute an appeal.

##### **3310.2905 NOTICE OF APPEAL.**

When a party files an appeal, the department must promptly send notice of the appeal to all interested parties involved in the issue under consideration. The notice of appeal shall identify the determination from which the appeal is taken.

##### **3310.2906 HEARING OF APPEALS.**

Hearings may be conducted as follows:

A. in person with the referee and all parties present at the same location;

B. as split hearings with the parties present at different times and locations before a referee;

C. through the means of written interrogatories to the parties by the referee; or

D. by a telephone conference.

Hearings by telephone conference may be scheduled under the following circumstances:

(1) the parties are at such locations as to make a prompt in-person hearing impractical;

(2) the appeal involves a single party hearing; or

(3) department budgetary constraints preclude the conduct of an in-person hearing.

Split hearings are ordinarily available only if an in-person or telephone hearing with both parties participating at the same time is impractical.

Interrogatories are available only when one of the parties is found in a foreign jurisdiction where practical means of reasonable voice communication are not available.

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### **3310.2907 PROMPT SCHEDULING OF HEARINGS.**

Hearings shall be scheduled as promptly as possible by the appellate office.

### **3310.2908 RESCHEDULING.**

Requests to reschedule a hearing must be addressed to the appellate office in advance of the regularly scheduled hearing date. A hearing may be rescheduled based on a party's need for additional time to obtain necessary evidence, inability to be present at the regularly scheduled time due to illness, other judicial or quasi-judicial proceedings which have previously been scheduled, or other compelling reasons beyond the control of the party which prevent attendance at the originally scheduled time. A letter confirming the reasons for requesting that the case be rescheduled shall be provided to the appellate office by the requesting party.

A referee who has been assigned a case for hearing may reschedule a hearing at the request of a party provided grounds for rescheduling as set forth above have been established.

### **3310.2909 REQUESTS FOR IN-PERSON HEARINGS.**

Upon the filing of an appeal or upon the receipt of a notice of appeal, either party may request an in-person hearing. When a telephone hearing is scheduled, the parties shall be notified in writing on the notice of hearing of their right to request an in-person hearing. The request shall be granted unless it is impractical due to the location of the parties or if granting the request would unreasonably delay the time period in which the hearing could be held.

### **3310.2910 NOTICE OF HEARING.**

The notice of hearing shall be mailed to each party at the last known address at least ten days before the scheduled date of hearing unless otherwise provided by law, or when notice is waived by the parties. The notice shall state the time, date, and place of the hearing and the issues to be considered at the hearing. The parties shall also be advised of their right to represent themselves or to be represented by an attorney or other duly authorized representative.

### **3310.2911 INTERPRETERS.**

The department shall provide an interpreter, when necessary upon the request of a party. The requesting party shall notify the appellate office at least seven calendar days before the date of the hearing that an interpreter is required. All notices and other documents distributed to parties and witnesses by the appellate office shall be prepared in easily understood English.

A written statement in English, Spanish, Laotian, Vietnamese, Cambodian, and Hmong which states that the accompanying documents are important, and that if the reader does not understand the documents, the reader should seek immediate assistance, shall accompany all notices and written documents distributed by the appellate office to the party whenever the office has reason to believe the primary language of the party is one of those previously listed other than English.

### **3310.2912 EXHIBITS IN TELEPHONE HEARINGS.**

Upon receipt of notice of a telephone hearing, and no later than five calendar days before the scheduled time of hearing, parties may submit to the department any documents they wish to offer as exhibits at the hearing. Copies of the documents as well as all documents which are to be introduced as department exhibits shall be mailed to all parties by the appellate office in advance of the hearing. If either party moves to introduce additional documents during the course of the hearing, and the referee rules that the documents should be admitted into evidence, the moving party shall send copies of the documents to the referee and the opposing party. The record shall be left open for sufficient time for the submission of a written objection and for response to the documents.

### **3310.2913 ACCESS TO DATA.**

The parties to a hearing shall be allowed reasonable access to department data necessary to represent themselves properly in proceedings under parts 3310.2901 to 3310.2929. Access to data under parts 3310.2901 to 3310.2929 shall be consistent with Minnesota Statutes, section 268.12, subdivision 12, Minnesota Statutes, chapter 13, and other laws relating to data practices.

### **3310.2914 SUBPOENAS.**

Subpoenas are available to a party to compel the attendance of witnesses, the production of documents or other exhibits upon a showing of necessity by the party applying for subpoenas. Subpoenas may be obtained by calling or writing the appellate office sufficiently in advance of the scheduled hearing to allow for the service of the subpoenas. The requesting party must identify the person or documents to be subpoenaed, the subject matter of the evidence requested, and their necessity. A referee may deny an inappropriate subpoena request. Factors to be considered in determining appropriateness include, but are not limited to, relevance, materiality, and redundancy. A request for a subpoena may be renewed when a party finds an additional basis or need for evidence.

### **3310.2915 DISQUALIFICATION OF REFEREE.**

A referee shall remove himself or herself from any case where the referee believes that presiding over the case would create the appearance of impropriety. No referee may hear any case where any of the parties to the appeal are related to the referee by blood

or marriage. A referee shall not hear any case if the referee has a financial or personal interest in the outcome. A referee having knowledge of such a relationship or interest shall immediately remove himself or herself from the case.

Any party may move for the removal of a referee by written application of the party together with a statement of the basis for removal. Upon the motion of the party, the director of the appellate office shall decide the fitness of the referee to hear the particular case.

#### **3310.2916 REPRESENTATION BEFORE REFEREE.**

Any individual may personally appear in any proceeding before a referee and may be represented by an attorney or a duly authorized representative. Any partnership may be represented by any of its members, an attorney, or other duly authorized representative. Any corporation or association may be represented by an officer, an attorney, or other duly authorized representative.

The commissioner has the discretion to refuse to allow any person to represent others in any proceeding before a referee if that person is unethical in conduct or intentionally and repeatedly fails to observe the provisions of the law or rules relative to such proceedings or the instructions of the commissioner or a referee.

#### **3310.2917 PUBLIC ACCESS TO HEARINGS.**

Appeal hearings are public hearings. A referee may exclude nonessential persons only when necessary due to physical space limitations or to maintain decorum. Upon the referee's motion or upon the motion of a party, a referee may sequester witnesses due to space limitations or to avoid prejudice or collusion.

The referee shall make a tape recording of all testimony that is the official record. No other voice recordings or pictures shall be made in the hearing room of any party, attorney, or witness involved in the hearing while the hearing is in session.

#### **3310.2918 APPEARANCES AT TELEPHONE HEARINGS.**

Appearances before a referee at telephone hearings shall be by telephone. The parties must notify the appellate office of the telephone number where they can be reached at the scheduled hearing time. The parties must also notify the appellate office of the telephone numbers of their counsel or witnesses. Such notifications shall be made as far in advance of the hearing as possible.

Whenever a party does not have a telephone or access to one, they may appear by telephone from an area office of the department.

Telephone hearings may also be held at area offices of the department with the parties present in the area office and the referee at a different location communicating by telephone.

#### **3310.2919 DATA PRACTICES NOTICE.**

At the beginning of each hearing, a referee shall advise the parties in the following or a similar manner of the data practices implications of the hearing:

"The purpose of this hearing is to take testimony and evidence. This information will be used to decide your rights under Minnesota law. Certain other government officials may have access to information provided at this hearing if this is allowed by statute or the information may be disclosed pursuant to valid court order."

#### **3310.2920 ADMINISTRATION OF OATH OR AFFIRMATION.**

Before testifying, every witness shall be required to declare to testify truthfully, by oath or affirmation. The mode of administering an oath shall be as practiced in this state. The form of the oath or affirmation shall be as set forth in Minnesota Statutes, sections 358.07 and 358.08.

#### **3310.2921 CONDUCT OF HEARING.**

The order of presentation of evidence shall be determined by the referee. Generally, the party with the burden of proving a particular issue will testify first. The referee shall inform the parties of their burdens of proof before the taking of testimony.

Each party may present and examine witnesses and offer their own documents or other exhibits. Opposing parties shall have the right to examine witnesses, object to exhibits and testimony, and cross-examine the other party's witnesses. The referee should assist unrepresented parties in the presentation of evidence. The referee shall note but need not rule upon objections on the record. The referee shall permit rebuttal testimony. Parties shall have the right to make closing statements. Closing statements may include comments based upon the evidence and arguments of law. The referee may limit repetitious testimony and arguments.

The referee shall exercise control over the hearing procedure in a manner that protects the parties' rights to a fair hearing. The referee shall ensure that relevant facts are clearly and fully developed.

#### **3310.2922 RECEIPT OF EVIDENCE.**

Only evidence offered into the record of any hearing may be considered by the referee. The parties may stipulate to the existence of any fact or the authenticity of any exhibit.

All competent, relevant, and material evidence, including records and documents in the possession of the parties which are offered

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into evidence, shall be part of the hearing record. A referee may receive any evidence which possesses probative value, including hearsay, if it is the type of evidence on which reasonable, prudent persons are accustomed to rely in the conduct of their serious affairs. A referee may exclude any evidence which is irrelevant, immaterial, unreliable, or unduly repetitious. A referee shall not be bound by statutory and common law rules of evidence. The rules of evidence may be used as a guide in a determination of the quality and priority of evidence offered. A referee may draw adverse inferences from the refusal of a party or witness to testify on the basis of any privilege. A referee shall only use reliable, probative, and substantial evidence as a basis for decision.

### **3310.2923 OFFICIAL NOTICE.**

A referee may take official notice of adjudicative facts and matters of common knowledge and may take notice of facts within the referee's specialized knowledge in the field of unemployment insurance. Parties shall be notified of any facts officially noticed by the referee and shall be given an opportunity to contest the noticed facts.

A referee may officially note any facts which are subject to judicial notice in the courts of Minnesota.

### **3310.2924 EX PARTE COMMUNICATIONS.**

Private communication between a referee assigned to an appeal and one or more of the parties to an appeal, in the absence of the other parties to the appeal, is forbidden if it relates to the substance of the matter at issue. Private communication is to be avoided even when it does not relate to the subject matter of the appeal if it would create the appearance of impropriety.

### **3310.2925 NONAPPEARANCES.**

When a party fails to appear at a regularly scheduled hearing, the referee may issue a decision based upon the evidence that is available unless it appears that there is good and sufficient cause to reschedule the hearing.

### **3310.2926 DECISIONS.**

Following the conclusion of the hearing of an appeal, a referee shall, within a reasonable time, issue a decision. Decisions of a referee shall contain a statement of the date and place of hearing, the parties in attendance, and the procedural history of the claim from which the appeal is taken.

Decisions shall contain a statement of the issue involved, findings of fact, reasons for the decision which apply the law to the facts, and a decision. Decisions may contain additional material at the discretion of a referee.

Decisions made by a referee shall be filed in the state office of the Department of Jobs and Training at Saint Paul, Minnesota. Notice of the filing of a referee's decision together with a copy of the decision shall be mailed to all parties to the appeal.

### **3310.2927 AMENDING DECISIONS OF REFEREE.**

In the absence of an appeal to the commissioner, any decision of a referee may be amended for any reason. The amendment must be made within 30 days of the date of filing of the decision. Clerical errors may be corrected at any time.

### **3310.2928 WITHDRAWAL OF APPEAL.**

Any party who has filed an appeal may withdraw the appeal at any time before the decision is issued by a referee. All withdrawals must be in writing signed by the party or an authorized representative or placed on the record of the hearing by the party or an authorized representative. Withdrawals in writing must identify the appeal that is being withdrawn. Upon the filing of a withdrawal, the referee before whom the matter is pending shall issue an order dismissing the appeal. The determination or decision with respect to which the appeal was initiated shall have the same force and effect as if the notice of appeal had not been filed.

### **3310.2929 APPEAL OF REFEREE'S DECISION.**

A decision of a referee may be appealed to the commissioner in accordance with applicable statutes and rules relating to appeals to the commissioner.

**REPEALER.** Minnesota Rules, parts 3310.2900, 3310.3500, 3310.3600, 3310.4100, 3310.4200, 3310.4300, 3310.4400, 3310.4900, and 3310.5300 are repealed.

## Department of Labor and Industry

### Notice of Certified Prevailing Wage Rates

On August 1, 1987 the commissioner will certify prevailing wage rates for commercial construction projects in the following Minnesota counties: Aitkin, Becker, Beltrami, Carlton, Cass, Clay, Clearwater, Cook, Crow Wing, Hubbard, Itasca, Kittson, Koochiching, Lake, Lake of the Woods, Mahnomen, Marshall, Norman, Ottertail, Pennington, Polk, Red Lake, Rosseau, St. Louis, Wadena and Wilkin.

A copy of the determined wage rates for Minnesota counties may be obtained by contacting the Minnesota Documents Division, 117 University Avenue, St. Paul, Minnesota 55155. The charges for the cost of copying and mailing are \$.50 for the first county and \$.30 for any subsequent copies of the same or other counties. For all 87 counties the charge is \$25.00. A sales tax of 6% must be added to all orders.

A check or money order payable to the State of Minnesota must accompany each request.

Ray Bohn, Commissioner  
Department of Labor & Industry

## Department of Labor and Industry

### Occupational Safety and Health Division

#### Notice of Intent to Schedule a Public Hearing Pending Completion of Review

On May 25, 1987, the Department of Labor and Industry announced the proposed adoption of revisions to the state-specific Minnesota Occupational Safety and Health Standards (11 S.R. 2138). The 30-day comment period, during which time interested parties could submit written comments, objections, and requests for public hearing, closed on June 26, 1987. Due to the length and complexity of the proposed standards, and the number of comments received, a final determination has not yet been made concerning which standards must go to public hearing. A public hearing is tentatively scheduled for October 15, 1987. The time, place, and standards that will be discussed at that hearing will be announced in the near future. The notice will be published in the *State Register* at least 30 days prior to the hearing. Persons who have registered with the Occupational Safety and Health Division will be notified by mail. Questions concerning the hearing may be directed to Patricia Lorentz, Occupational Safety and Health Division (612) 297-3254.

## State Law Library

### County Law Libraries: Joint Notice of Filing Fees

Pursuant to *Minnesota Statutes* 140.422 (140.421 for Hennepin and Ramsey Counties), the following law library filing fees are in effect.

#### COUNTY LAW LIBRARY FILING FEES

County	Civil (a)	Probate	Conciliation (a)	Criminal Conviction	(b)	Petty Misdemeanor
AITKIN	5	5	5	5		5
ANOKA	7	5	5	10		—
BECKER	5	5	—	10(c)	5(d)	5
BELTRAMI	8	8(e)	8	6		6
BENTON	10	10	5	10		1
BIG STONE	5	5	5	5		5
BLUE EARTH	10	10	10	1		1(f)
BROWN	6	6	6	1		1
CARLTON	10	10	5	—		—
CARVER	7	7	5	—		—
CASS	5	5	5	—		—
CHIPPEWA	10	10	10	—		—
CHISAGO	5	5	3	5(c)	2(d)	2
CLAY	10	10	5	10(g)	5(h)	5
CLEARWATER	5	5	5	3(i)		3(i)
COOK	10	10	10	10		10
COTTONWOOD	5	5	5	—		—
CROW WING	5	5	5	—		—
DAKOTA	5	5	5	—		—
DODGE	5	5	5	—		—
DOUGLAS	10	10	5	10(c)	5(d)	5
FARIBAULT	10	10	10	—		—
FILLMORE	5	5	1	—		—

# Official Notices

County	Civil (a)	Probate	Conciliation (a)	Criminal Conviction	(b)	Petty Misdemeanor
FREEBORN	10	10	5	10		—
GOODHUE	10	10	3	—		—
GRANT	5	5	5	5		5
HENNEPIN	8	8	3	—		—
HOUSTON	10	10	7	10(c)	5(d)	5(f)
HUBBARD	5	5	5	5		5
ISANTI	5	5	3	5(c)	2(d)	2
ITASCA	5	5	5	5		5
JACKSON	5	5	5	2(h)		2(j)
KANABEC	5	5	3	5(c)	2(d)	2
KANDIYOHI	10	10	10	15(g)	10(k)	5(L)
KITTSON	5	5	5	5		5
KOOCHICHING	5	5	5	5		—
LAC QUI PARLE	10	10	10	—		—
LAKE	10	10	10	10		10
LAKE OF THE WOODS	5	5	5	—		—
LE SUEUR	10	10	5	—		—
LINCOLN	5	5	5	1		1
LYON	5	5	5	—		—
MAHNOMEN	5	5	5	—		—
MARSHALL	5	5	5	5		5
MARTIN	5	5	5	—		—
MCLEOD	5	5	5	—		9.90(m)
MEEKER	10	10	10(n)	2		2
MILLE LACS	7	7	1	10(c)	5(d)	2
MORRISON	10	10	1	10(c)	5(d)	1
MOWER	5	5	5	—		—
MURRAY	10	10	10	5		5
NICOLLET	5	5	5	2		2
NOBLES	5	5	5	3		3
NORMAN	5	5	5	5		—
OLMSTED	10	10	5	—		—
OTTER TAIL	10	10	—	10(c)	5(d)	5
PENNINGTON	7.50	7.50	5	7.50		—
PINE	5	5	3	—		—
PIPESTONE	5	5	5	5		1
POLK	5	5	5	5		3
POPE	5	5	5	5		5
RAMSEY	7	7(o)	3	—		—
RED LAKE	5	5	5	5		2.50
REDWOOD	6	6	6	1%(p)		1%(p)
RENVILLE		NO FEES				
RICE	10	10	10	—		2
ROCK	5	5	5	5		1
ROSEAU	5	5	5	5		—
SCOTT	5	5	5	—		—
SHERBURNE	5	5	3	5		5
SIBLEY	7	7	7	—		—
ST. LOUIS	10	10	5	2(q)		2(q)
STEARNS	10	10	5	10		1
STEELE	10	10	7	—		—
STEVENS	5	5	5	5		5
SWIFT	10	10	10	10		2
TODD	10	10	5	10(c)	5(d)	3
TRAVERSE	5	5	5	5		5



County	Civil (a)	Probate	Conciliation (a)	Criminal Conviction (b)	Petty Misdemeanor
WABASHA	5	5	5	—	—
WADENA	5	5	4	—	—
WASECA	10	10	5	—	—
WASHINGTON	7	7	—	1	1
WATONWAN	5	5	—	—	—
WILKIN	5	5	5	5	5
WINONA	10	10	5	2(r)	2(r)
WRIGHT	5	5	3	1	1
YELLOW MEDICINE	10	10	10	—	—

**NOTES:**

- (a) Fee charged to plaintiff and defendant unless otherwise noted.
- (b) Assessed on felonies, gross misdemeanors, and misdemeanors unless otherwise noted.
- (c) Assessed on felonies and gross misdemeanors.
- (d) Assessed on misdemeanors.
- (e) Probate fees charged on formal proceedings and determination of descent.
- (f) Not assessed on parking tickets.
- (g) Assessed on felonies.
- (h) Assessed on gross misdemeanors and misdemeanors.
- (i) Assessed on fines that are \$10 or more.
- (j) No assessment for non-moving traffic violations.
- (k) Assessed on gross misdemeanors.
- (L) Assessed on misdemeanors and petty misdemeanors except for non-moving traffic violations.
- (m) Assessed on traffic tickets for speeding 1 to 20 miles over the limit.
- (n) No fees assessed on defendants.
- (o) No fee on guardianship or conservatorship petitions.
- (p) 1% of original assessment, rounded up to the nearest dollar.
- (q) Conviction assessment fees will not be collected until board, after reviewing operating costs, determines it is necessary.
- (r) Board reserves right to assess up to \$2 in non-traffic misdemeanor cases and traffic (non-parking) cases.

Dated: 16 July 1987

## Metropolitan Council

### Notice of Review Schedule 1988 Work Program and Budget

The Metropolitan Council is developing a 1988 work program and budget for adoption in September. The Council's Management Committee will be reviewing the proposed budget and seeking public comment during July, August and September.

The proposed budget was developed based on direction provided by Council members at three spring retreats.

The following is the final schedule for review of the 1988 work program and budget.

July 14	Management Committee review
July 21	Management Committee review
July 28	Management Committee review
	Public meeting to receive comments
August 4	Management Committee review
August 18	Management Committee review (tentative)
September 1	Management Committee review (tentative)
September 10	Public hearing on 1988 work program and budget

## Official Notices

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September 15 Management Committee review and recommendation  
September 23 Hearing record closes  
September 24 Council adopts 1988 work program and budget.

Please call to confirm meeting dates, times and agendas. A notice of public hearing will be published. If you have any questions regarding the schedule or proposed budget, call the Council's Finance Division and talk to Alan Morris at 291-6446 or Tim Fleetham at 291-6374.

## Department of Revenue

### Legal and Legislative Affairs Division

#### Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Individual Income Taxation

Notice is hereby given that the State Department of Revenue is seeking information or opinions from sources outside the agency in preparing to propose the adoption and amendment of the rules governing individual income taxation, particularly the rules governing the following areas: residency, net and taxable net income, taxation of part year residents and nonresidents, assignability of income, net operating losses, tuition and transportation deduction, basis, fiduciary, partnership and Subchapter S corporation tax computations, returns, audit and review, estimated tax payments and withholding of personal service compensation of nonresidents. The adoption of rules is authorized by *Minnesota Statutes*, section 290.52, which permits the agency to make rules enforcing the provisions of *Minnesota Statutes* Chapter 290.

The State Department of Revenue requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Amy Eisenstadt  
Legal and Legislative Affairs Division  
Minnesota Department of Revenue  
P.O. Box 64446  
St. Paul, Minnesota 55164

Oral statements will be received during regular business hours over the telephone at (612) 296-1022 and in person at:

Centennial Office Building  
2nd Floor  
658 Cedar Street  
St. Paul, Minnesota

All statements of information and opinions shall be accepted until August 31, 1987. Any written material received by the State Department of Revenue shall become part of the rulemaking record to be submitted to the Attorney General or administrative law judge in the event that the rules are adopted.

Dated: 10 July 1987.

Amy Eisenstadt, Attorney  
Legal and Legislative  
Affairs Division  
Department of Revenue

## Revisor of Statutes

### Notice of Publication of *Minnesota Rules 1987*

*Minnesota Rules 1987* is now available. This publication is composed of compiled rules of state agencies adopted between April 9, 1985 and March 30, 1987. The cost of the 11 Volume set of *Minnesota Rules 1987* is \$160. Individual volumes may be purchased for \$15 each. *Minnesota Rules 1987* may be purchased from the Department of Administration's Minnesota Documents Division, Department of Administration, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000. Orders must be prepaid. *Minnesota Rules 1988 Supplement Number 1* is scheduled for April, 1988 publication.

## Department of Public Safety

### The Department of Public Safety is accepting applications for the position of Pipeline Safety Director

A Pipeline Safety Office was created in the Department of Public Safety in the 1986-87 Legislative Session. This new office is charged with regulation and inspection of gas pipelines throughout the State of Minnesota to ensure the development of plans and emergency notification procedures related to these lines.

The Director will manage the office and supervise a Chief Inspector who will have a staff of three Inspectors. The Director will be responsible for developing and implementing policies, procedures, rules, and budgets necessary to meet the statutory requirements of M.S. 299J.03.

The Director will work closely with State and Federal officials, local governments and emergency response agencies throughout the State, and members of the pipeline industry in ensuring that the service needs of the public are met in the safest manner possible.

Additional information and applications may be obtained from the Department of Public Safety, Room 211 Transportation Building, St. Paul, MN 55155, 612/296-6642. Applications will be accepted until August 14, 1987.

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## State Contracts and Advertised Bids

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

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

Commodities contracts with an estimated value of \$15,000 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 whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

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## Department of Administration: Procurement Division

### Contracts and Requisitions Open for Bid

Call 296-6152 for Referral to Specific Buyers, whose initials are next to each commodity.

Commodity for Bid (and Buyer)	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Supply/installation of sound system (Pat)	July 29	Human Services	St. Paul	55 000 96072
Overlay markers (JD)	July 29	Transportation	Bemidji	79 200 02981
Ultracentrifuges (DK)	July 29	State University	St. Cloud	26 073 19830
Air filters (DM)	July 30	Various	Various	Price Contract Addendum # 1
Tape Sbsystem (PA)	July 31	Jobs & Training	St. Paul	21 200 15679
Sun computer system (PA)	August 3	Health	Mpls	12 500 13265
Radio consoles (PA)	August 3	Public Safety	Detroit Lakes	01 500 39696
Computer equipment (MJB)	August 3	State University	Mankato	26 071 17713
Harris line units (PA)	August 3	State University	Winona	26074 11323
Data general equipment (PA)	August 3	State University	Bemidji	26 070 13097
PC's (PA)	August 3	Deed	St. Paul	22 600 02488
Plumbing fixtures & accessories (DM)	August 4	Correctional Facility	Oak Park Heights	78 630 07538
Maintenance agreement (PA)	August 4	Higher Education Coordinating Board	St. Paul	60 000 05200
Water treatment chemicals "heating" addendum three (DO)	August 4	Various	Various	Price Contract

## State Contracts and Advertised Bids

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### Department of Administration: Printing & Mailing Services

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Commodity for Bid (and Buyer)	Bid Due Date at 2 pm	Department or Division	Delivery Point	Requisition #
1987-89 Viewbook	August 3	State University	St. Cloud	0147 26073 20153

### Department of Agriculture

#### Plant Industry Division

#### Request for Proposals for Advertising

The Plant Industry Division of the Department of Agriculture, is seeking a consultant to provide advertising services under contract to develop and implement, upon review and approval of the department, an advertising campaign to promote Minnesota certified seed potatoes and thus increase the demand and sales of same through advertising, promotion, and public relations throughout the country. The department has estimated that the cost of this project will not exceed \$20,000.00 for professional services and expenses including advertisement placement. This request for proposal does not obligate the state to complete the project and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

For a copy of the Request for Proposal, contact:

Richard T. Zink, Ph.D., Supervisor  
Seed Potato Certification  
Minnesota Department of Agriculture  
University of Minnesota—Crookston  
12 Hill Hall  
Crookston, MN 56716  
Phone No. (218) 281-6976

### Minnesota Higher Education Coordinating Board

#### Notice of Request for Proposals for Contractual Services

The Minnesota Higher Education Coordinating Board (MHECB) is requesting proposals from a consultant to analyze borrower data the MHECB has available.

##### Scope of the Project

Describe differences in debt levels and default rates for different groups of students using available borrower data.

##### Project Completion Date

The project will end February 12, 1988 subject to satisfactory completion.

##### Right to Withdraw

The MHECB reserves the right to withdraw this project anytime until the contract is awarded.

**Project Costs**

It is anticipated that the cost of this project will not exceed \$25,000.00 for professional services and expenses.

Those interested in receiving a request for proposal should contact:

Arlon J. Haupt  
Director of Administrative Services  
400 Capitol Square Building  
550 Cedar Street  
St. Paul, Minnesota 55101  
(612) 296-9685

Proposals will be accepted until 4:30 p.m. August 21, 1987.

**Department of Human Services****Notice of Extension of Deadline For Request for Proposals for Prepaid Health Plans**

The Department of Human Services originally published a Notice of Request for Proposals for prepaid health plans to provide Medical Assistance services to Aid to Families with Dependent Children (AFDC) recipients in the *State Register* on June 22, 1987. The Department is now extending the deadline for one month for health plans to submit a proposal. To receive consideration of its proposal, each prepaid health plan must submit a letter indicating its intent to file a response to the Request for Proposals. The letter of intent must be received by the Department no later than 4:30 p.m. on July 31, 1987.

The new deadline for submitting a complete proposal is 4:30 p.m., on August 31, 1987. An original and four copies are required. Selection of health plans will be made in September, 1987. Please direct all correspondence to:

William E. Novak  
Department of Human Services  
Space Center Building  
444 Lafayette Road  
St. Paul, Minnesota 55155  
Phone: 612/296-1725

**Department of Transportation****Technical Services Division****Availability of Contract for Bridge Design**

The Minnesota Department of Transportation intends to engage a consultant to prepare construction plans for Bridge No. 69836 (Leif Erikson Tunnel) carrying T.H. 35 under London Road in Duluth, Minnesota.

Work is proposed to start after January 1, 1988. Approximately 8 months anticipated for completion.

Technical inquiries should be directed to:

Mr. D. J. Flemming  
State Bridge Engineer  
Transportation Building  
St. Paul, MN 55155  
(612) 296-3172

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

Mr. J. F. Weingartz  
Consultant Agreements Engineer  
Room 612B  
Transportation Building  
St. Paul, MN 55155

Response deadline 12:00 P.M., August 7, 1987.

# State Grants

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In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

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## Department of Education

### Availability of Funds for Adult Basic Education Services

The Minnesota Department of Education announces the availability of funds for contracts with private, nonprofit organizations to provide adult basic education services for persons 16 years of age who do not attend an elementary or secondary school. Services eligible for funding are limited to services that are not available through an existing public school ABE program or that are supplemental to a school district's ABE program. Application for a contract under this program will be reviewed and approved according to the following criteria:

1. how the needs of all levels of learners will be met;
2. for continuing programs, an evaluation of results;
3. anticipated number and education level of participants;
4. coordination with other resources and services;
5. participation in a consortium, if any, and funds available from other participants;
6. management and program design;
7. volunteer training and use of volunteers;
8. staff development services;
9. program sites and schedules.

Application materials are available from:

Community and Adult Education Section  
Minnesota Department of Education  
998 Capitol Square Building  
550 Cedar Street  
St. Paul, Minnesota 55101

Applications will be accepted until the end of the working day, August 28, 1987.

## Department of Jobs and Training

### Notice of Availability of Funds for Independent Living Rehabilitation Services

The Department of Jobs and Training, Division of Rehabilitation Services, Independent Living Program, is accepting applications for grants to conduct independent living services.

The Division will award up to eight (8) grants in the amount of five to six thousand dollars each on or about September 1, 1987.

Eligible applicant organizations may submit applications for grants. Eligible applicant organizations are private, non-profit consumer governed corporations, whose primary purpose is to serve people with disabilities by increasing their independence in the home, family or community.

Proposals must encompass independent living rehabilitation services as described in 1986 *Minnesota Statutes*, section 129A.10.

Priority consideration will be given to applications which address the needs of people with disabilities in poverty areas and of people with disabilities who are American Indian.

Applications must demonstrate that: (1) the proposed project has a reasonable expectation of success; (2) the applicant organization is a legally incorporated non-profit, tax exempt entity in Minnesota; and (3) the project will increase the independence of the greatest number of people with disabilities. The deadline for receipt of applications is 4:30 PM August 24, 1987. Request for proposal applications can be obtained from Scott Rostron, Independent Living Program, Division of Rehabilitation Services, 390 North Robert Street, St. Paul, Minnesota 55101 or call (612) 296-5085.

# Supreme Court Decisions

## Decisions Filed Friday, 17 July 1987

**C9-86-1368** In the Matter of: State of Minnesota, County of Douglas, ex rel. Mary Emma Ward, parent, on behalf of J.M.K. v. Robert Joseph Carlson, Appellant. Douglas County.

Minn. Stat. § 257.57 (1986) does not deny to a class of children the equal protection of the laws by limiting to three years after a child's birth the time for bringing an action for the purpose of declaring the nonexistence of the father and child relationship presumed under Minn. Stat. § 257.55, subd. 1, clause (a), (b), or (c) (1986).

Certified question answered. Coyne, J.

## Announcements

**Sentencing Guidelines Commission** A meeting of the commission will take place 5:30 p.m. Tuesday 28 July 1987 in Hearing Room 5 Ground Floor of the State Office Building in St. Paul. The commission's Criminal History Subcommittee will meet at 4 p.m., prior to the full commission meeting, in Conference Room 70 Ground Floor, State Office Bldg.

### Voices of the Loon

Its voice severs the bonds to the world of cities, traffic, crowds, lights and noise. The lyrical magic of the loon, sometimes hauntingly eerie, makes the skin tingle, and the hair on the back of the neck stand on edge, awakening a primitive response. Its solitary wail turns the shadowy wilderness into a mysterious path into eternity.

*Voices of the Loon*, cassette tape, includes introduction and loon call identification, chorus from a distant lake, tremolo duet, wail duet, border confrontation, wails with morning songbird chorus, tremolos while running, wails during a thunderstorm, and coyotes calling with loons. Code #19-73, \$12.00.

*The Loon: Voice of the Wilderness*, hardbound with color plates and illustrations, 143 pages. Code #9-14, \$6.00.

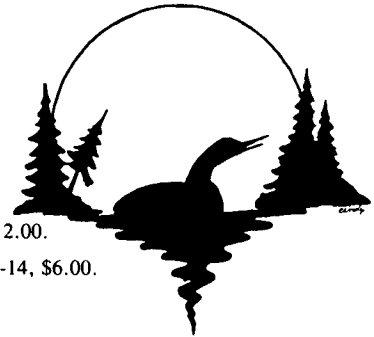
*Loon Calendar 1987*, beautiful photographs and scenes. Code #15-40, \$6.95.

*Loon Lapel Pin*. Code #15-30, \$2.49.

*Loon Windsock*, 56 inches long in full color. Code #15-29, \$19.95.

*Loon Nature Print*, full-color poster 16" x 22", Code #15-18, \$3.00.

TO ORDER: 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." Please include 6% sales tax, and \$1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over phone.



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

### Minnesota's future environment

The issue of environmental protection is of continuing interest to both Minnesota business and the general public. Stay abreast of changes in state government regulations with these publications.

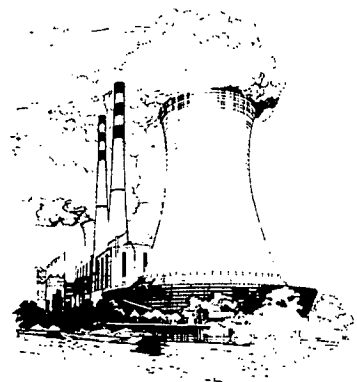
#### 1986 Pollution Control Laws

Laws dealing with water pollution, disposal facilities, solid waste management, the MN Environmental Rights Act, recycling, and more. Code No. 2-21. \$15.00.

#### 1986 Hazardous Waste Rules

Governs the production, storage, transportation and disposal of hazardous waste. MN Rules Chapter 7045 and 7046. Code No. 3-71. \$13.50.

TO ORDER: 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." Please include 6% sales tax, and \$1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over 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.

## 60% Discount on case lots of the 1986 Official Minnesota Hiway Map

Equip your sales force. Drive off with your Minnesota Highway maps for less than 20¢ each (regular retail price: 55¢ each). Discount applies to case lots only, with a minimum order of 1 case (200 maps) at \$39.95. Great for workshop folders, conventions and programs. Code #12-52.

**Hudson's Street Atlas of the Greater Twin City Metropolitan Area.** Includes 186 municipalities, 129 sectional street maps, and 22,000 street listings. Code #12-62, \$10.95.

**Minnesota Travel and Recreation Guide.** Where to go and what to see, canoeing and hiking trails, golf directory, campground directory, "Minne-Tours," state parks, hunting and fishing information and more. 296 pp., code #40-6, \$11.95.

**Room at the Inn: Guide to Historic Bed and Breakfasts, Hotels and Country Inns Close to the Twin Cities,** by Laura Zahn. 127 pp., Code #19-72, \$7.95.



TO ORDER: 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." Please include 6% sales tax, and \$1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over 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.

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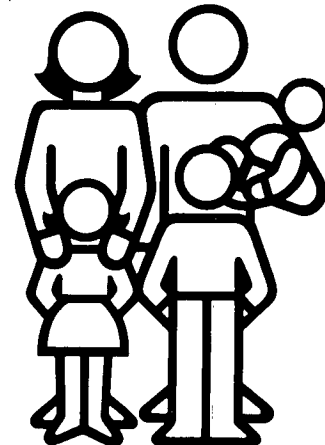
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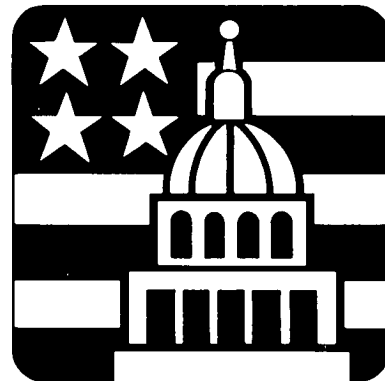
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