

State of Minnesota

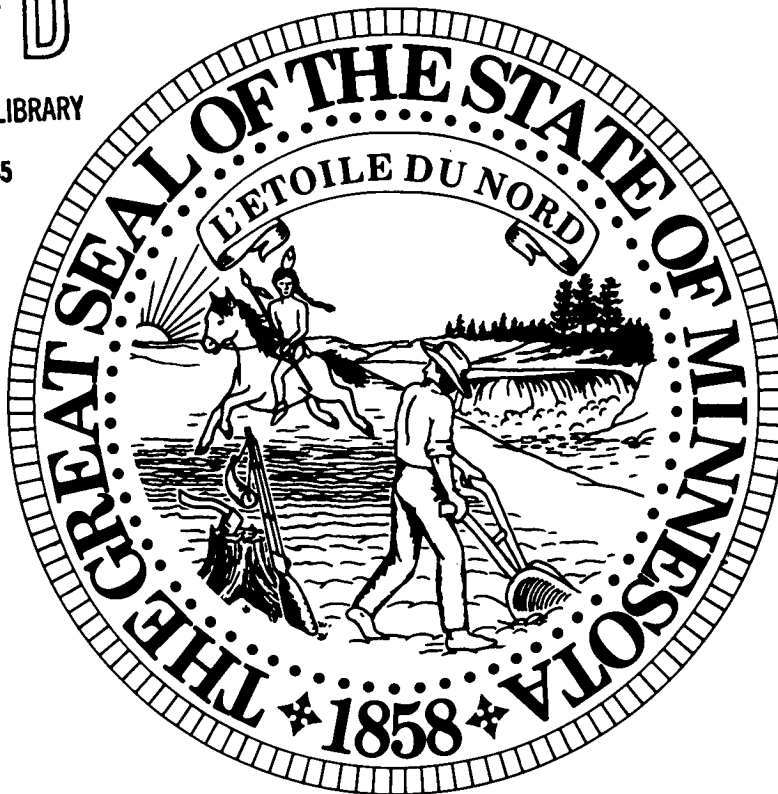
STATE REGISTER

Department of Administration—Print Communications Division

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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, contract awards, 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. 13 Issue Number	*Submission deadline for Adopted and Proposed Rules**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
51	Monday 5 June	Monday 12 June	Monday 19 June
52	Monday 12 June	Monday 19 June	Monday 26 June
1 (Vol. 14)	Monday 19 June	Monday 26 June	Monday 3 July
2	Monday 26 June	Monday 3 July	Monday 10 July

*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.

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

Rudy Perpich, Governor

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

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FOR LEGISLATIVE NEWS

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

SENATE

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

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

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

HOUSE

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

This Week—weekly interim bulletin of the House.

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

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

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NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific *Minnesota Rule* chapter numbers. Every odd-numbered year the *Minnesota Rules* are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the *Official Notices* section of the *State Register*. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as **Proposed Rules**. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the *State Register*, a subscription, the annual index, the *Minnesota Rules* or the *Minnesota Guidebook to State Agency Services*, contact the Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-652-9747.

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Proposed Rules

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

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

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

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

Department of Health

Proposed Permanent Rules Relating to Health Maintenance Organizations

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing will be held in the above-entitled matter at the Board Room, Minnesota Department of Health, 717 South East Delaware Street, Minneapolis, Minnesota 55440, on Monday, July 31, 1989, commencing at 9:00 a.m. 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.

This matter will be heard by Administrative Law Judge Howard L. Kaibel, Jr., Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7608. The rule hearing procedure is governed by *Minnesota Statutes* sections 14.14 to 14.20 (1988) and by *Minnesota Rules*, parts 1400.0200 to 1400.1200 (1987).

Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above. The proposed rules establish requirements for health maintenance organization coordination of benefits, annual report and filing requirements, uncovered expenditures and incurred but not reported expenses.

The proposed rules are authorized by *Minnesota Statutes*, sections 62D.20, 62D.08 and 62D.182. The adoption of these rules will not require the expenditure of public moneys in excess of \$100,000 by local public bodies in either of the two years following adoption. See, *Minnesota Statutes* section 14.11, subdivision 1. The proposed rules were published in full in the April 17, 1989 *State Register*. One free copy of the rules is available on request by contacting:

Dawna L. Tierney
Alternative Delivery Systems
Minnesota Department of Health
717 S.E. Delaware Street
Minneapolis, Minnesota 55440
(612) 623-5607

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

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 not be 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 comments 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 Dawna Tierney at the address stated above.

Proposed Rules

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 amendments. 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 so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Agency at any time prior to the filing of the rules with the Secretary of State.

Please be advised that *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* Chapter 10A.01, subd. 11 (1988) 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 own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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

The statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5615.

Dated: 7 June 1989

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed

4685.0100 DEFINITIONS.

Subpart 1. to 9. [Unchanged.]

Subp. 9a. **NAIC Blank.** "NAIC Blank" means the ~~1985~~ 1988 version of the National Association of Insurance Commissioners' Blank for Health Maintenance Organizations (~~1985~~ 1988) published by the Brandon Insurance Service Company, Nashville, Tennessee. The NAIC Blank is incorporated by reference and is available for inspection at Ford Law Library, 117 University Avenue, Saint Paul, Minnesota 55155. The NAIC Blank is subject to annual changes by the publisher, but health maintenance organizations must use the ~~1985~~ 1988 version.

Subp. 9b. to 15. [Unchanged.]

~~4685.0805~~ UNCOVERED EXPENDITURES.

Subpart 1. Defined. Uncovered expenditures as referred to in Minnesota Statutes, section 62D.041, are expenditures by a health maintenance organization or a contracting provider for health care services by a provider who is not a participating entity and who is not under agreement with the health maintenance organization. Examples of providers not under such an agreement include those providing out-of-area services, in-area emergency services, and certain referral services.

Subp. 2. Documentation required. If a health maintenance organization claims certain expenditures that meet the criteria of subpart 1 are covered because they are guaranteed, insured, or assumed, the health maintenance organization must give to the commissioner, with its annual report, documentation of the arrangements. If the arrangements are unchanged from the previous year, the health maintenance organization may reference previously filed documents. Documentation means applicable contracts between the health maintenance organization and the entity guaranteeing, and an explanation thereof.

Subp. 3. When insured. An uncovered expenditure may be considered insured within the applicable coverage limitation and covered if the health maintenance organization can demonstrate to the commissioner that:

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

Proposed Rules

A. the health maintenance organization has reinsurance under Minnesota Statutes, section 62D.04, subdivision 1, for nonelective emergency services and services provided outside the service area if those services were provided by nonparticipating providers and any other services provided by nonparticipating providers; or

B. the health maintenance organization has insolvency insurance that expressly covers enrollee obligations incurred before and after the date of insolvency, including obligations to nonparticipating providers.

Subp. 4. When guaranteed. An uncovered expenditure may be considered guaranteed and covered if the health maintenance organization demonstrates to the commissioner that the guarantor has agreed to guarantee obligations of the health maintenance organization to nonparticipating providers and if:

A. the guarantor has demonstrated to the commissioner that it has set aside an amount of money equal to the amount of deposit that it is guaranteeing; the guarantor has issued a letter of credit; or the guarantor has demonstrated to the commissioner that it is a governmental entity with the power to tax;

B. according to its terms, the guarantee cannot expire without written notice from the guarantor to the commissioner and the notice must occur at least 60 days before the expiration date;

C. the guarantee is irrevocable, unconditional, and may be drawn upon after the insolvency of the health maintenance organization; and

D. the guarantee may be drawn upon by the commissioner.

Subp. 5. When assumed. An uncovered expenditure may be considered assumed and covered if the health maintenance organization can demonstrate to the commissioner any other arrangement for uncovered expenditures to be paid by an entity other than the health maintenance organization even in the event of the insolvency of the health maintenance organization. The commissioner shall require financial information relating to the capability of the entity to assume the risk of uncovered expenditures.

Subp. 6. Calculating uncovered expenditures. The health maintenance organization must make an annual calculation of uncovered expenditures according to items A to E.

A. The health maintenance organization shall determine the amount of annual uncovered expenditures in the relevant year before adjustments for guarantees, insurance, or assumptions.

B. The health maintenance organization shall adjust the amount of uncovered expenditures in item A by subtracting:

(1) reinsurance receipts that are described in subpart 3, item A, that are accrued to the relevant year, and that reduced those expenditures; and

(2) any relevant assumptions of risk.

C. The health maintenance organization shall multiply the adjusted amount in item B by 33 percent.

D. The health maintenance organization may subtract from the amount in item C the amounts of any guarantees and insolvency insurance that would reduce uncovered expenditures in the event of insolvency or nonpayment.

E. The health maintenance organization shall use forms supplied by the commissioner in annual reports to report uncovered expenditures.

4685.0815 INCURRED BUT NOT REPORTED LIABILITIES.

Subpart 1. Written records of claims. A health maintenance organization shall keep written records of claims, according to items A to C.

A. A health maintenance organization shall establish and maintain files and records that accurately document its process for calculating claim liabilities, including incurred but not reported claims, that are submitted in annual and quarterly reports to the commissioner.

B. Written records pertaining to claims shall be maintained separately from other records pertaining to claims payable.

C. The health maintenance organization must have complete and accurate claim data available for the commissioner to audit as required under Minnesota Statutes, section 62D.14.

Subp. 2. Calculation of incurred but not reported claims. The liability for incurred but not reported claims shall be calculated in conformity with generally accepted accounting principals and actuarial standards. The health maintenance organization shall calculate its incurred but not reported claims by taking past actual claims experience and then adjusting this base figure for changing trends. Factors that shall be considered reasonable adjustments to the base figure include the following:

A. changes in enrollment mix, provider mix, and product mix;

B. changes in claims or billing procedures;

C. changes in utilization;

D. organizational changes;

E. medical advancements and new procedures; and

F. any other factors the health maintenance organization can demonstrate have an effect on incurred but not reported claims experience.

4685.0900 SUBROGATION AND COORDINATION OF BENEFITS.

The health maintenance organization may require an enrollee to reimburse it for the reasonable value of health maintenance services provided to an enrollee who is injured through the act or omission of a third person or in the course of employment to the extent the enrollee collects damages or workers' compensation benefits for the diagnosis, care, and treatment of his an injury. The health maintenance organization may be subrogated to the enrollee's rights against the third person or the enrollee's employer to the extent of the reasonable value of the health maintenance services provided including the right to bring suit in the enrollee's name. ~~The health maintenance organization may also provide in its evidences of coverage for coordination of benefits, whereby the health maintenance organization is entitled to determine whether and to what extent an enrollee has indemnity or other coverage for the services or goods provided to the enrollee or benefits paid on behalf of the enrollee by the health maintenance organization, to establish standard for priorities among those obligated to provide services or indemnification, to refer to other, prior sources of care, and to enforce the health maintenance organization's right to recover under those standards. Provided, however, no health maintenance organization may recover the value of services rendered from an enrollee beyond any amount actually received by the enrollee in indemnification for the value of services rendered by the health maintenance organization.~~

The health maintenance organization shall provide covered health services first, and coordinate benefits according to parts 4685.0905 to 4685.0950.

COORDINATION OF BENEFITS

4685.0905 PURPOSE AND APPLICABILITY.

The purpose of parts 4685.0905 to 4685.0950 is to:

A. permit, but not require, plans to include a coordination of benefits provision;

B. establish the order in which plans pay claims;

C. provide the authority for the orderly transfer of information needed to pay claims promptly;

D. reduce duplication of benefits by permitting a reduction of the benefits paid by a plan when the plan does not have to pay its benefits first;

E. reduce delays in payment of claims; and

F. make all contracts that contain a coordination of benefits provision consistent with this regulation.

4685.0910 DEFINITIONS.

Subpart 1. Scope. The following words and terms, when used in parts 4685.0905 to 4685.0950, have the following meanings unless the context clearly indicates otherwise.

Subp. 2. Allowable expense.

A. "Allowable expense" means the necessary, reasonable, and customary item of expense for health care when the item of expense is covered at least in part under any of the plans involved, except where a statute requires a different definition.

B. Notwithstanding this definition, items of expense under coverages such as dental care, vision care, or prescription drug or hearing aid programs may be excluded from the definition of allowable expense. A plan that provides benefits only for such items of expense may limit its definition of allowable expenses to those items of expense.

C. When a plan provides benefits in the form of service, the reasonable cash value of each service is both an allowable expense and a benefit paid.

D. The difference between the cost of a private hospital room and the cost of a semiprivate hospital room is not an allowable

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expense under this definition unless the patient's stay in a private hospital room is medically necessary in terms of generally accepted medical practice.

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

Subp. 3. Claim. "Claim" means a request that benefits of a plan be provided or paid. The benefits claimed may be in the form of:

- A. services, including supplies;
- B. payment for all or a portion of the expenses incurred;
- C. a combination of items A and B; or
- D. an indemnification.

Subp. 4. Claim determination period.

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

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

C. As each claim is submitted, each plan must determine its liability and pay or provide benefits based upon allowable expenses incurred to that point in the claim determination period. The determination may be adjusted as allowable expenses are incurred later in the same claim determination period.

Subp. 5. Coordination of benefits. "Coordination of benefits" means a provision establishing the order in which plans pay their claims.

Subp. 6. Hospital indemnity benefits. "Hospital indemnity benefits" are not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

Subp. 7. Plan. "Plan" means a form of coverage with which coordination is allowed. The definition of plan in the group contract must state the types of coverage that will be considered in applying the coordination of benefits provision of that contract. The right to include a type of coverage is limited by the rest of this definition.

A. The definition shown in the Model Coordination of Benefits Provisions in part 4685.0950 is an example of what may be used. Any definition that satisfies this subpart may be used.

B. Instead of "plan," a group contract may use "program" or some other term.

C. Plan includes:

- (1) Group insurance and group subscriber contracts.
- (2) Uninsured arrangements of group or group-type coverage.
- (3) Group or group-type coverage through health maintenance organizations and other prepayment, group practice, and individual practice plans. Group-type contracts are contracts that are not available to the general public and can be obtained and maintained only because of membership in or connection with a particular organization or group. Group-type contracts may be included in the definition of plan, at the option of the insurer or the service provider and the contract client, whether or not uninsured arrangements or individual contract forms are used and regardless of how the group-type coverage is designated, for example, franchise or blanket. Individually underwritten and issued guaranteed renewable policies are not group-type even though purchased through payroll deduction at a premium savings to the insured since the insured would have the right to maintain or renew the policy independently of continued employment with the employer.

(4) The amount by which group or group-type hospital indemnity benefits exceed \$100 a day.

(5) The medical benefits coverage in group, group-type, and individual automobile no-fault and traditional automobile fault-type contracts.

(6) Medicare or other governmental benefits, except as provided in item D, subitem (7). That part of the definition of plan may be limited to the hospital, medical, and surgical benefits of the governmental program.

D. Plan does not include:

- (1) individual or family insurance contracts;

- (2) individual or family subscriber contracts;
- (3) individual or family coverage through health maintenance organizations;
- (4) individual or family coverage under other prepayment, group practice, and individual practice plans;
- (5) group or group-type hospital indemnity benefits of \$100 a day or less;
- (6) school accident-type coverages that cover grammar, high school, and college students for accidents only, including athletic injuries, either on a 24-hour basis or on a to and from school basis; and
- (7) a state plan under Medicaid, or a law or plan when, by law, its benefits are in excess of those of any private insurance plan or other nongovernmental plan.

Subp. 8. Primary plan. “Primary plan” means a plan that requires benefits for a person’s health care coverage to be determined without taking into consideration the existence of any other plan. A plan is a primary plan if either of the following is true:

A. The plan either has no order of benefit determination rules or it has provisions that differ from those permitted by parts 4685.0905 to 4685.0950. There may be more than one primary plan.

B. All plans that cover the person use the order of benefit determination rules required by parts 4685.0905 to 4685.0950 and, under those rules, the plan determines its benefits first.

Subp. 9. Secondary plan. “Secondary plan” means a plan that is not a primary plan. If a person is covered by more than one secondary plan, the order of benefit determination rules in parts 4685.0905 to 4685.0950 determine the order in which their benefits are determined in relation to each other. The benefits of each secondary plan may take into consideration the benefits of the primary plan or plans and the benefits of any other plan which under these rules has its benefits determined before those of that secondary plan.

Subp. 10. This plan. In a coordination of benefits provision, “this plan” refers to the part of the group contract providing the health care benefits to which the coordination of benefits provision applies and that may be reduced because of the benefits of other plans. Any other part of the group contract providing health care benefits is separate from this plan. A group contract may apply one coordination of benefits provision to certain of its benefits, such as dental benefits, coordinating only with like benefits, and may apply other separate coordination of benefits provisions to coordinate other benefits.

4685.0915 COORDINATION OF BENEFITS; PROCEDURES.

Subpart 1. General. The general order of benefits is as follows:

A. The primary plan must pay or provide its benefits as if the secondary plan or plans do not exist. A plan that does not include a coordination provision may not take into account the benefits of another plan as defined in part 4685.0910 when it determines its benefits. The one exception is that a contract holder’s coverage designed to supplement a part of a basic package of benefits may provide that the supplementary coverage shall be excess to any other parts of the plan provided by the contract holder.

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

C. The benefits of the plan that covers the person as an employee, member, or subscriber, that is, other than as a dependent, are determined before those of the plan that covers the person as a dependent.

Subp. 2. Dependent child: parents not separated or divorced. Benefits for a dependent child when the parents are not separated or divorced must be coordinated according to the procedures in items A to E.

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

B. If both parents have the same birthday, the benefits of the plan that covered the parent longer are determined before those of the plan that covered the other parent for a shorter time.

C. The word “birthday” refers only to month and day in a calendar year, not the year in which the person was born.

D. A group contract that includes coordination of benefits and is issued or renewed or that has an anniversary date on or after 60 days after the effective date of this subpart must include the substance of the provisions in items A to C. Until this subpart

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becomes effective, the group contract may contain wording such as: "Except as stated in subpart 3, the benefits of a plan that covers a person as a dependent of a male are determined before those of a plan that covers the person as a dependent of a female."

E. If one parent's plan contains the coordination plan described in items A to C, and the other parent's plan contains the coordination plan based on the gender of the parent, and if, as a result, the parents' plans do not agree on the coordination of benefits, the coordination plan based on the gender of the parent determines the order of benefits.

Subp. 3. Dependent child: separated or divorced parents. If two or more plans cover a person as a dependent child of divorced or separated parents, benefits for the child are coordinated according to this subpart. If a court orders one of the parents to pay the health care expenses of the child, and the entity that pays or provides the parent's plan knows of the order, the benefits of that parent's plan are determined first. The plan of the other parent is the secondary plan. This paragraph does not apply to any claim determination period or plan year during which benefits are actually paid or provided before the entity knows of the order. If a court order does not require one of the parents to pay the child's health care expenses, benefits are coordinated according to items A to C.

A. The benefits of the plan of the parent with custody of the child are determined first.

B. The benefits of the plan of the spouse of the parent with the custody of the child are determined second.

C. The benefits of the plan of the parent without custody of the child are determined last.

D. In the case of joint custody, the primary plan will be determined according to subpart 2.

Subp. 4. Active/inactive employee. The benefits of a plan that covers a person as an employee, who is neither laid off nor retired, or as a dependent of that employee are determined before benefits of a plan that covers that person as a laid-off or retired employee or as a dependent of that employee. If the other plan does not have this rule and if, as a result, the plans do not agree on the order of benefits, this rule does not apply.

Subp. 5. Longer/shorter length of coverage. If none of these rules determines the order of benefits, the benefits of the plan that covered an employee, member, or subscriber longer are determined before those of the plan that covered that person for the shorter term.

A. To determine the length of time a person has been covered under a plan, two plans are treated as one if the claimant was eligible under the second plan within 24 hours after the first ended.

B. The start of a new plan does not include:

(1) a change in the amount of scope of a plan's benefits;

(2) a change in the entity that pays, provides, or administers the plan's benefits; or

(3) a change from one type of plan to another, such as from a single employer plan to that of a multiple employer plan.

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

4685.0925 PROCEDURE TO BE FOLLOWED BY SECONDARY PLAN.

Subpart 1. Total allowable expenses. When a plan is a secondary plan under part 4685.0920, its benefits may be reduced so that the total benefits paid or provided by all plans during a claim determination period are not more than total allowable expenses. The amount by which the secondary plan's benefits have been reduced shall be used by the secondary plan to pay allowable expenses, not otherwise paid, that were incurred during the claim determination period by the person for whom the claim is made. As each claim is submitted, the secondary plan determines its obligation to pay for allowable expenses based on all claims that were submitted up to that time during the claim determination period.

Subp. 2. Reducing benefits of a secondary plan. The benefits of the secondary plan shall be reduced when the sum of the benefits that would be payable for the allowable expenses under the secondary plan in the absence of coordination of benefits provisions in parts 4685.0905 to 4685.0950 and the benefits that would be payable for the allowable expenses under the other plans, in the absence of coordination of benefits provisions in parts 4685.0905 to 4685.0950, whether or not claim is made, exceeds those allowable expenses in a claim determination period. In that case, the benefits of the secondary plan shall be reduced so that they and the benefits payable under the other plans do not total more than those allowable expenses.

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

B. Item A may be omitted if the plan provides only one benefit, or may be altered to suit the coverage provided.

4685.0930 MISCELLANEOUS PROVISIONS.

Subpart 1. Reasonable cash values of services. A secondary plan that provides benefits in the form of services may recover the reasonable cash value of providing the services from the primary plan, if benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan. Nothing in this subpart shall be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan that provides benefits in the form of services.

Subp. 2. Coordination of benefits with a noncomplying plan. Some plans contain a coordination provision that violates parts 4685.0905 to 4685.0950 by declaring that the plan's coverage is excess to all others, or is always secondary. This occurs because certain plans may not be subject to insurance regulation, or because some group contracts have not yet been conformed with this regulation under part 4685.0905. A plan may coordinate its benefits with a plan that does not comply with parts 4685.0905 to 4685.0950 according to items A to E.

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

B. If the complying plan is the secondary plan, it must pay or provide its benefits first, but the benefits payable are determined as if the complying plan is the secondary plan, and are limited to the complying plan's liability.

C. If the noncomplying plan does not provide the information needed by the complying plan to determine its benefits within a reasonable time after it is requested to do so, the complying plan shall pay benefits as if the benefits of the noncomplying plan are identical to its own. However, the complying plan must adjust its payments when it receives information on the actual benefits of the noncomplying plan.

D. If the noncomplying plan reduces its benefits so that the member receives less in benefits than the member would have received had the complying plan paid benefits as the secondary plan and the noncomplying plan paid benefits as the primary plan, and governing state law allows the right of subrogation set forth below, then the complying plan shall pay to or on behalf of the member an amount equal to the difference.

E. The complying plan shall not pay more than the complying plan would have paid had it been the primary plan less any amount it previously paid. The complying plan is subrogated to all rights of the member against the noncomplying plan. A payment by the complying plan under this item does not prejudice any claim against the noncomplying plan in the absence of subrogation.

Subp. 3. Allowable expense. A term such as "usual and customary," "usual and prevailing," or "reasonable and customary" may be substituted for the term "necessary," "reasonable," or "customary." A term such as "medical care" or "dental care" may be substituted for "health care" to describe the coverages to which the coordination provisions apply.

Subp. 4. Subrogation. Provisions for coordination or subrogation may be included in health care benefits contracts without compelling the inclusion or exclusion of the other.

4685.0935 EFFECTIVE DATE; EXISTING CONTRACTS.

Subpart 1. Applicability of coordination rules. Coordination requirements in parts 4685.0905 to 4685.0950 apply to every group contract that provides health care benefits issued on or after the effective date of parts 4685.0905 to 4685.0950.

Subp. 2. Deadline for compliance. A group contract that provides health care benefits and that was issued before the effective date of this regulation shall be brought into compliance with this regulation by the later of:

A. the next anniversary date or renewal date of the group contract; or

B. the expiration of any applicable collectively bargained contract under which it was written.

4685.0940 MODEL COORDINATION OF BENEFITS CONTRACT PROVISION.

Subpart 1. General. Use of the model coordination of benefits provision for group contracts in part 4685.0950 is subject to subparts 2 and 3 and part 4685.0920.

Subp. 2. Flexibility. A group contract's coordination provision does not have to use the words and format shown in part 4685.0950. Changes may be made to fit the language and style of the rest of the group contract or to reflect the difference among plans that provide services, that pay benefits for expenses incurred, and that indemnify. No other substantive changes are allowed.

Subp. 3. Prohibited coordination and benefit design.

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A. A group contract may not reduce benefits on the basis that:

(1) another plan exists;

(2) a person is or could have been covered under another plan, except with respect to Part B of Medicare; or

(3) a person has elected an option under another plan providing a lower level of benefits than another option that could have been elected.

B. No contract may contain a provision that its benefits are excess or always secondary to any plan, except as allowed in parts 4685.0905 to 4685.0950.

4685.0950 TEXT OF MODEL COORDINATION OF BENEFITS PROVISIONS FOR GROUP CONTRACTS.

Group contracts must contain language on coordination of benefits that is substantially similar to the following model provisions.

COORDINATION OF THE GROUP CONTRACT'S BENEFITS WITH OTHER BENEFITS

I. APPLICABILITY.

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

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

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

(2) may be reduced when, under the order of benefits determination rules, another plan determines its benefits first. The above reduction is described in section IV.

II. DEFINITIONS.

A. "Plan" is any of these which provides benefits or services for, or because of, medical or dental care or treatment:

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

(2) Coverage under a governmental plan, or coverage required or provided by law. This does not include a state plan under Medicaid (Title XIX, Grants to States for Medical Assistance Programs, of the United States Social Security Act, as amended from time to time).

Each contract or other arrangement for coverage under (1) or (2) is a separate plan. Also, if an arrangement has two parts and COB rules apply only to one of the two, each of the parts is a separate plan.

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

C. "Primary Plan/Secondary plan:" The order of benefit determination rules state whether This Plan is a Primary Plan or Secondary Plan as to another plan covering the person.

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

* When This Plan is a Secondary Plan, its benefits are determined after those of the other plan and may be reduced because of the other plan's benefits.

When there are more than two plans covering the person, This Plan may be a Primary Plan as to one or more other plans, and may be a Secondary Plan as to a different plan or plans.

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

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

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

E. "Claim Determination Period" means a calendar year. However, it does not include any part of a year during which a

person has no coverage under This Plan, or any part of a year before the date this COB provision or a similar provision takes effect.

III. ORDER OF BENEFIT DETERMINATION RULES.

A. General. When there is a basis for a claim under This Plan and another plan, This Plan is a Secondary Plan which has its benefits determined after those of the other plan, unless:

(1) The other plan has rules coordinating its benefits with those of This Plan; and

(2) Both those rules and This Plan's rules, in Subsection B below, require that This Plan's benefits be determined before those of the other plan.

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

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

(2) Dependent Child/Parents not Separated or Divorced. Except as stated in Paragraph (B)(3) below, when This Plan and another plan cover the same child as a dependent of different persons, called "parents:"

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

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

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

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

(a) First, the plan of the parent with custody of the child;

(b) Then, the plan of the spouse of the parent with the custody of the child; and

(c) Finally, the plan of the parent not having custody of the child.

However, if the specific terms of a court decree state that one of the parents is responsible for the health care expense of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has actual knowledge of those terms, the benefits of that plan are determined first. The plan of the other parent shall be the Secondary Plan. This paragraph does not apply with respect to any Claim Determination Period or Plan Year during which any benefits are actually paid or provided before the entity has that actual knowledge.

(4) Active/Inactive Employee. The benefits of a plan which covers a person as an employee who is neither laid off nor retired (or as that employee's dependent) are determined before those of a plan which covers that person as a laid off or retired employee (or as that employee's dependent). If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, this Rule (4) is ignored.

(5) Longer/Shorter Length of Coverage. If none of the above rules determines the order of benefits, the benefits of the plan which covered an employee, member or subscriber longer are determined before those of the Plan which covered that person for the shorter term.

IV. EFFECT ON THE BENEFITS OF THIS PLAN.

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

B. Reduction in this Plan's Benefits. The benefits of This Plan will be reduced when the sum of:

(1) The benefits that would be payable for the Allowable Expense under This Plan in the absence of this COB provision;

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and

(2) The benefits that would be payable for the Allowable Expenses under the other plans, in the absence of provisions with a purpose like that of this COB provision, whether or not claim is made; exceeds those Allowable Expenses in a Claim Determination Period. In that case, the benefits of This Plan will be reduced so that they and the benefits payable under the other plans do not total more than those Allowable Expenses.

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

V. RIGHT TO RECEIVE AND RELEASE NEEDED INFORMATION.

Certain facts are needed to apply these COB rules. [health maintenance organization] has the right to decide which facts it needs. It may get needed facts from or give them to any other organization or person. [health maintenance organization] need not tell, or get the consent of, any person to do this. Each person claiming benefits under This Plan must give [health maintenance organization] any facts it needs to pay the claim.

VI. FACILITY OF PAYMENT.

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

VII. RIGHT OF RECOVERY.

If the amount of the payments made by [health maintenance organization] is more than it should have been paid under this COB provision, it may recover the excess from one or more of:

- A. The persons it has paid or for whom it has paid;
- B. Insurance companies; or
- C. Other organizations.

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

4685.1910 UNIFORM REPORTING.

Beginning April 1, ~~1986~~ 1989, health maintenance organizations shall submit as part of the annual report a completed ~~1985~~ 1988 NAIC Blank, subject to the amendments in parts 4685.1930, 4685.1940, and 4685.1950.

4685.1940 NAIC BLANK FOR HEALTH MAINTENANCE ORGANIZATIONS, REPORT #2: STATEMENT OF REVENUE AND EXPENSES.

Subpart 1. **Separate statements.** The NAIC Blank for health maintenance organizations is amended by requiring the submission of a separate STATEMENT OF REVENUE AND EXPENSES for each of the following:

- A. the health maintenance organization's total operations; ~~and~~
- B. each demonstration project, as described under *Minnesota Statutes*, section 62D.30; ~~and~~
- C. any Medicare risk enrollee contracts authorized by section 1876 of the Social Security Act; and
- D. any other Medicare contracts.

Subp. 2. **Other expenses.** Report #2: STATEMENT OF REVENUE AND EXPENSES is amended by adding line 19a, Other Expenses.

Subp. 3. **Additional administrative expenses.** Report #2: STATEMENT OF REVENUE AND EXPENSES is amended by adding line 25a, Additional Administrative Expenses.

Subp. 4. Uncovered expenses. Report #2: STATEMENT OF REVENUE AND EXPENSES is amended by requiring a schedule of uncovered expenses.

4685.1950 NAIC BLANK FOR HEALTH MAINTENANCE ORGANIZATIONS, REPORT #4: ENROLLMENT AND UTILIZATION TABLE.

Subpart 1. **Additional columns.** Report #4: ENROLLMENT AND UTILIZATION TABLE is amended by adding the following columns:

- A. 9a, Total Ambulatory Encounters for Period for Mental health; and

B. 9b, Total Ambulatory Encounters for Period for Chemical Dependency.

Subp. 2. **Total members at end of period.** The Report #4: ENROLLMENT AND UTILIZATION TABLE is amended by requiring the itemization of Cumulative Member Months for Period by gender and five-year age increments, and Total Members at End of Period by gender, by five-year age increments, and by geographic area county, for the health maintenance organization's Minnesota health maintenance contract enrollment, Medicare risk contract enrollment authorized by section 1876 of the Social Security Act, any other Medicare contract enrollment, and each demonstration project.

Subp. 3. **Type of service.** Report #4: ENROLLMENT AND UTILIZATION TABLE is amended by requiring the itemization of Total Patient Days Incurred, Annualized Hospital Days per 1,000 Enrollees, and Average Length of Stay by five-year age increments and by the following types of service for Minnesota health maintenance contracts, Minnesota health maintenance Medicare risk contracts, authorized by section 1876 of the Social Security Act, any other Medicare contract enrollment, and each demonstration project:

- A. medical/surgical, in a hospital;
- B. obstetrical/gynecological, in a hospital;
- C. mental health, in a hospital or other health care facility;
- D. chemical dependency, in a hospital or other health care facility; and
- E. other services provided in health care facilities other than hospitals.

4685.1980 QUARTERLY REPORTS.

The following sections of the NAIC Blank shall be submitted as the health maintenance organization's quarterly reports:

- A. NAIC Reports #1, #2, #3; and
- B. a description of the enrollment data included in NAIC report #4.

4685.2100 ANNUAL REPORTS.

In addition to all other information specified in the act, every health maintenance organization shall include in its annual report to the commissioner of health the following:

- A. The results of any and all elections conducted during the preceding calendar year relative to consumer representation on the health maintenance organization's governing body;
- B. A copy of the health maintenance organization's most recent information summary provided to its enrollees in accordance with *Minnesota Statutes*, section 62D.09;
- C. A description of the method and results of the system to evaluate the quality of health services. ~~Such~~ The evaluation shall include, but not necessarily be limited to, study of the quality of care for at least one disease condition or age group; ~~and~~
- D. A schedule of prepayment charges made to enrollees during the preceding year and any changes which have been implemented or approved up to the reporting date.
- E. A listing of participating entities grouped by county, including the name, complete address, and clinic name, if applicable, of each health care provider and a description of each health care provider's specialty. This listing shall be submitted on forms prescribed by the commissioner.

4685.2250 USE OF FILED MATERIAL.

When a health maintenance organization modifies any documents as described in *Minnesota Statutes*, section 62D.08, subdivision 1, it shall not implement the modifications until notice of the modifications has been filed with the commissioner and the filing is approved, or deemed approved.

4685.3300 PERIODIC FILINGS.

Subpart 1. [See Repealer.]

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

Proposed Rules

Subp. 1a. Final form. Copies of all contracts, contract forms or documents and their amendments which are required to be filed with the commissioner according to Minnesota Statutes, section 62D.08, subdivision 1, must be submitted in final typewritten form.

Subp. 2. [See Repealer.]

Subp. 2a. Insufficient information. A filing shall be disapproved if supporting information is necessary to determine whether the filed material meets all standards in this chapter or Minnesota Statutes, chapter 62D, and supporting information does not accompany the filing, or the supporting information is not adequate.

In the disapproval letter, the commissioner shall specify the supporting information required, and the health maintenance organization may refile the additional information as an amended filing according to the provisions of subpart 6.

Subp. 3. Filing of contract. The filing of any contracts or evidences of coverage pursuant to under Minnesota Statutes, section 62D.07 or 62D.08, subdivision 1 shall be accompanied by sufficient evidence on cost of services on which copayments are being imposed so as to allow the commissioner of health to determine the impact and reasonableness of the copayment provisions.

Subp. 4. [See Repealer.]

Subp. 4a. Form identification. Each contract, contract form or document and their amendments, filed for approval must contain the health maintenance organization's name, address, and telephone number and must be identified by a unique form number in the lower left hand corner on the first page of the form. If applicable, the health maintenance organization shall identify the filing as either a group or individual contract or evidence of coverage.

Subp. 5. [See Repealer.]

Subp. 5a. Duplicate copies. Each contract form or document and its amendments filed with the commissioner must be submitted in duplicate with a cover letter indicating the name and telephone number of the contact person for the health maintenance organization, and the address to which the commissioner's decision shall be mailed.

Subp. 6. Approval or disapproval. One copy of each contract form or document and its amendments, filed with the commissioner must be stamped approved or disapproved and returned to the health maintenance organization within 30 days after the commissioner's receipt of the filing. If disapproved, the specific reason for denial shall be stated in writing by the commissioner or authorized representative.

Subp. 7. Amended filings. A filing that has been disapproved may be amended and refiled with the commissioner without a filing fee, provided the health maintenance organization submits the amended filing to the commissioner within 30 days after the health maintenance organization receives notice of disapproval. An amended filing shall only address the issues that were the subject of the disapproval. When refileing an amended filing, the health maintenance organization shall use the same identification number that was used on the original filing.

When the health maintenance organization files an amended filing, it shall submit two copies of the amended filing. One copy must be stamped approved or disapproved and returned to the health maintenance organization within 30 days after the commissioner's receipt of the amended filing under subpart 6.

Subp. 8. Endorsements. When filing an endorsement, amendment, or rider, the health maintenance organization shall indicate the form number or numbers with which the endorsement, amendment, or rider will be used.

Subp. 9. Service area expansion. The filing of a request to expand a service area must be accompanied by sufficient supporting documentation including the following:

A. a detailed map with the proposed service area outlined;

B. provider locations charted on the map;

C. a description of driving distances, using major transportation routes, from the borders of the proposed service area to the participating providers;

D. a description of the providers' hours of operation;

E. evidence that the physicians have admitting privileges at the hospitals that enrollees in the new service area will use;

F. a list of providers in the new service area with the name, address, and specialty of every provider;

G. evidence of contractual arrangements with providers. Acceptable evidence is a copy of the signature page of the provider contract, or a sworn affidavit that states that the providers are under contract with the health maintenance organization; and

H. any other information relating to documentation of service area, facility, and personnel availability and accessibility to allow a determination of compliance with part 4685.1000.

Subp. 10. Marked up copies. Any filing that amends or replaces a previously approved filing shall be accompanied by a copy

of the previously approved filing with any changes, additions, or deletions noted.

Subp. 11. Notice of participating entity changes. Any notice of an addition or deletion of a participating entity must be submitted on forms prescribed by the commissioner, or approved for use by the commissioner.

REPEALER. Minnesota Rules, part 4685.3300, subparts 1, 2, 4, and 5, is repealed.

Department of Labor and Industry

Proposed Repeal of Rules Relating to Medical and Rehabilitation Review Practices

Notice of Intent to Repeal a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Rehabilitation Review Panel and the Medical Services Review Board intend to repeal the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority for the rules is contained in *Minnesota Statutes*, sections 176.102, subd. 3(b) and 176.103, subd. 3(c).

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

Any person may make a written request for a public hearing on the rule repeal within the 30-day comment period. If 25 or more persons submit a written request for public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule 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 public hearing must be submitted to:

Janice Kramer, Executive Secretary
Rehabilitation Review Panel and
Medical Services Review Board
443 Lafayette Road
St. Paul, MN 55155-4316
(612) 296-8213

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

The rule proposed for repeal relates to the rules of practice for hearings before the Workers' Compensation Rehabilitation Review Panel and Medical Services Review Board. A free copy of the rule repeal is available upon request from the executive secretary.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule repeal and identifies the data and information relied upon to support the proposed rule repeal has been prepared and is available from the executive secretary upon request.

If no hearing is required, upon repeal of the rule, the rule repeal 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 repealed rule, must submit a written request to the executive secretary.

Dated: 31 May 1989

Janice Kramer, Executive Secretary
Rehabilitation Review Panel and Medical
Services Review Board

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Proposed Rules

Rules as Proposed

REPEALER. Minnesota Rules, parts 5217.0010; 5217.0020; 5217.0030; 5217.0040; 5217.0050; 5217.0060; 5217.0070; 5217.0080; 5217.0090; 5217.0100; 5217.0110; 5217.0120; 5217.0130; 5217.0140; 5217.0150; 5217.0160; 5217.0170; 5217.0180; 5217.0190; 5217.0200; 5217.0210; 5217.0220; 5217.0230; 5217.0240; 5217.0250; 5217.0260; 5217.0270; and 5217.0280, are repealed.

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 Corrections

Adopted Permanent Rules Relating to Juveniles; Fire Inspection

The rules proposed and published at *State Register*, Volume 13, Number 27, pages 1679-1680, January 3, 1989 (13 S.R. 1679) are adopted as proposed.

Department of Public Service

Energy Division

Adopted Permanent Rules Relating to Thermal Insulation Standards

The rules proposed and published at *State Register*, Volume 13, Number 38, pages 2272-2279, March 20, 1989 (13 S.R. 2272) are adopted with the following modifications:

Rules as Adopted

7640.0120 DEFINITIONS.

Subp. 19a. **Quality assurance program.** "Quality assurance program" means the collective set of plans, activities, and events that are provided to ensure that the product or service will satisfy given needs. A quality assurance program must ~~include the elements of conform~~ to "Generic Guidelines for Quality Systems," American National Standards Institute - American Society for Quality Control standard ANSI ANSI/ASQC Z-1.15, 1979.

7640.0130 INSULATION MATERIALS STANDARDS.

Subp. 5. **Foam plastic insulation.**

C. Unfaced polyurethane and polyisocyanurate in board form must comply with ASTM C 591-85, Standard Specification for Unfaced Preformed Rigid Cellular Polyurethane Thermal Insulation.

Exception: Aged R-value must be ~~6-0~~ 5.6 per inch or greater at ~~70~~ 75 degrees Fahrenheit.

G. Foam plastic insulation that conforms to all requirements of ICBO Evaluation Service Acceptance Criteria for Foam Plastic, October, 1982, for the intended application, meets the Minnesota testing standards in this subpart.

Subp. 8. **Other insulation.** Insulation other than insulation specified in subparts 1 to 7, to be sold, marketed, or advertised for use in residential structures in Minnesota must comply with the requirements in items A to F

C. If the material is foam in place, a test of the shrinkage using ASTM C ~~591-85~~ 951-83, section 8.5 must be used.

7640.0150 REPORTING REQUIREMENTS.

Subpart 1. **Applicability.** This subpart identifies all industry members to whom subparts 2 and 3 apply.

D. Insulation products identified in part 7640.0130, subparts 3 to 8 that are composed of the identical material, for example the same chemical make-up, composition, or physical properties, but that have different dimensional characteristics, such as width, length, or thickness, or density, need not undergo additional testing by the same manufacturer once the initial similar product meets the necessary requirements.

7640.0160 APPLICATION AND INSTALLATION STANDARDS.

Subp. 2. **Application and inspection.** Industry members installing insulation shall follow manufacturer's written application instructions.

In attic areas where insulation is to be installed, the installer shall comply with part 7640.0110, subpart 5.

Installation of cellulosic and mineral fiber in loose-fill form must comply with ASTM standard ~~C 4015~~ C 1015-84, including part 7.7.2.

Installation of reflective insulation must comply with ASTM standard C 727-72 (reapproved 1978).

7640.0180 INCORPORATIONS BY REFERENCE AND CITATIONS.

Subp. 2. **ASTM.** The following ASTM standards are incorporated by reference:

N. ASTM C ~~951-85~~ 951-83, Standard Specification for Urea-Formaldehyde-Based, Foam in Place Insulation.

R. ASTM C ~~4015~~ 1015-84, Standard Practice for Installation of Cellulosic and Mineral Fiber Loose-Fill Thermal Insulation.

Subp. 2a. **Standards.** The following American National Standards Institute - American Society for Quality Control standard is incorporated by reference:

ANSI ANSI/ASQC standard Z-1.15-1979: Generic Guidelines for Quality Systems.

Executive Orders**Emergency Executive Order 89-3 Providing Clean Drinking Water to the Residents of McKinley, Minnesota**

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

WHEREAS, the Sheriff of St. Louis County, Minnesota has requested assistance in providing clean drinking water for the residents of McKinley, Minnesota due to a land slide that destroyed the cities water pumping station; and

WHEREAS, the city of McKinley and other local officials have exhausted all other resources in their efforts to provide safe drinking water for the residents of McKinley, Minnesota;

NOW, THEREFORE, I hereby order that:

1. The Adjutant General of Minnesota order to active duty on or after May 14, 1989, in the service of the State, such elements and equipment of the military forces of the State as required to provide safe drinking water to the residents of McKinley, Minnesota for such a period of time as necessary to ensure the restoration of the water service to the city.

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.

Executive Orders

2. The cost of subsistence, transportation, fuel, and pay and allowances of said individuals shall be defrayed from the general fund of the State as provided for in *Minnesota Statutes* 1988, Sections 192.49, Subdivision 1; 192.51 and 192.52.

Pursuant to *Minnesota Statutes* 1988, Section 4.035, this Order shall be effective May 14, 1989 and shall remain in effect until such date as elements of the military forces of the State are no longer required.

IN TESTIMONY WHEREOF, I have set my hand this 14th day of May, 1989.



Rudy Perpich
Governor

Official Notices

Pursuant to the provisions of *Minnesota Statutes* § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

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

Board of Animal Health

Notice of Board Meeting

A meeting of the Board of Animal Health has been scheduled for Friday, July 14, 1989 at the Board offices in the Department of Agriculture Building, 90 W. Plato Boulevard, Saint Paul, Minnesota. The meeting will begin at 9:30 a.m.

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

Dated: 12 June 1989

Thomas J. Hagerty
Executive Secretary

Environmental Quality Board

Notice of Site Designation and Issuance of Certificate of Site Compatibility

In the Matter of the Application by Rosemount Cogeneration Joint Venture for a Certificate of Site Compatibility. MEQB Docket #OPB-P-1 Rosemount Cogeneration Project—May 25, 1989

On May 25, 1989, the Minnesota Environmental Quality Board (Board) designated a site and issued a certificate of site compatibility for a 50-60 megawatt natural gas fueled combined cycle large electric power generating plant. The plant will be constructed by the Rosemount Cogeneration Joint Venture, a Minnesota general partnership made up of Oxbow Power Corporation, of Dedham, Massachusetts, and Biosyn Chemical Corporation, of Minneapolis, Minnesota.

The Joint Venture has a contract with Northern States Power Company for the sale of 50 MW of electricity and is negotiating to sell steam to Continental Nitrogen & Resources Corporation (CNR).

The site designated by the Board is located on the property of CNR at the junction of Minnesota Highways 55 and 56 in the northeast portion of the city of Rosemount, Minnesota.

The Board concluded that the CNR site and the Joint Venture's original Preferred site (located about 1 mile southeast of the CNR site) were equal in rank and both qualify as certifiable sites for the construction of the plant. However, The Power Plant Siting Act does not explicitly authorize designation of more than one site. Therefore, in accordance with the request of the Joint Venture, the CNR site was designated as the certified site. However, this designation is with the understanding that the original Preferred site is equally certifiable and that should an agreement not be reached with CNR, the Preferred site, upon the request of the Applicant, could be designated by the Minnesota Environmental Quality Board at a Board meeting based on the existing record.

Based on the designation time limits of *Minnesota Statutes* Sect. 116C.57, subd. 1, the period of time that the Joint Venture may request the Board to change the designation of the CNR site to the Preferred site will expire on October 17, 1989. The Joint Venture may request an extension of time up to six months for just cause.

Copies of the Board Findings of Fact, Conclusions of Law and Order and the Certificate of Site Compatibility are available for public review at the following locations: Dakota County Library system, Hastings Community Library, Inver Grove Community College Library, and the Board's office in St. Paul.

Any questions may be directed to John Hynes, Permit Compliance Manager, at the Board's address or by calling (612) 296-2871.

Dated: 1 June 1989

John C. Ditmore, Chairman
Environmental Quality Board

Department of Human Services

Notice of Change in the Sliding Fee Scale for the Consolidated Chemical Dependency Treatment Fund (CCDTF)

Minnesota Statutes, section 254B.04, subdivision 2a, requires the Commissioner of Human Services to adopt a sliding fee scale for the CCDTF *Minnesota Rules*, part 9530.7020, subpart 3 requires the department to adjust the sliding fee scale annually, and publish the adjustments in the *State Register*. The sliding fee scale listed below will be effective for the fiscal year beginning on July 1, 1989.

Comments or questions regarding the fee scale may be addressed to:

Carolyn Pollard
Chemical Dependency Program Division
444 Lafayette Road
St. Paul, MN 55155-3823
(612) 296-4728

FISCAL YEAR 1990

July 1, 1989—June 30, 1990

Sliding Fee Scale for Minnesota Rules, Part 9530.7020, subp. 3

FAMILY OF 1

	60% = \$11,465	100% = \$19,108	115% = \$21,974	
ANNUAL GROSS		MONTHLY GROSS	MONTHLY FEE	TOTAL OBLIGATION
\$ 0-11,465		\$ 0- 955	\$ 0	0
11,466-12,366		956-1,030	10	60
12,367-13,267		1,031-1,106	18	108
13,268-14,168		1,107-1,181	27	162
14,169-15,069		1,182-1,256	38	228
15,070-15,970		1,257-1,331	52	312
15,971-16,871		1,332-1,406	68	408
16,872-17,772		1,407-1,481	85	510
17,773-18,673		1,482-1,556	105	630
18,674-19,574		1,557-1,631	127	762
19,575-20,475		1,632-1,706	151	906
20,476-21,376		1,707-1,781	177	1,062
21,377-21,974		1,782-1,831	205	1,230

Official Notices

60% = \$14,992		FAMILY OF 2 100% = \$24,987		115% = \$28,735	
ANNUAL GROSS		MONTHLY GROSS		MONTHLY FEE	TOTAL OBLIGATION
\$ 0-14,992		\$ 0-1,249		\$ 0	0
14,993-15,893		1,250-1,324		10	60
15,894-16,794		1,325-1,399		18	108
16,795-17,695		1,400-1,475		27	162
17,696-18,596		1,476-1,550		38	228
18,597-19,497		1,551-1,625		52	312
19,498-20,398		1,626-1,700		68	408
20,399-21,299		1,701-1,775		85	510
21,300-22,200		1,776-1,850		105	630
22,201-23,101		1,851-1,925		127	762
23,102-24,002		1,926-2,000		151	906
24,003-24,903		2,001-2,075		177	1,062
24,904-25,804		2,076-2,150		205	1,230
25,805-26,705		2,151-2,225		235	1,410
26,706-27,606		2,226-2,300		267	1,602
27,607-28,507		2,301-2,376		302	1,812
28,508-28,735		2,377-2,395		338	2,028

60% = \$18,520		FAMILY OF 3 100% = \$30,867		115% = \$35,497	
ANNUAL GROSS		MONTHLY GROSS		MONTHLY FEE	TOTAL OBLIGATION
\$ 0-18,520		\$ 0-1,543		\$ 0	0
18,521-19,421		1,544-1,618		10	60
19,422-20,322		1,619-1,693		18	108
20,323-21,223		1,694-1,769		27	162
21,224-22,124		1,770-1,844		38	228
22,125-23,025		1,845-1,919		52	312
23,026-23,926		1,920-1,994		68	408
23,927-24,827		1,995-2,069		85	510
24,828-25,728		2,070-2,144		105	630
25,729-26,629		2,145-2,219		127	762
26,630-27,530		2,220-2,294		151	906
27,531-28,431		2,295-2,369		177	1,062
28,432-29,332		2,370-2,444		205	1,230
29,333-30,233		2,445-2,519		235	1,410
30,234-31,134		2,520-2,594		267	1,602
31,135-32,035		2,595-2,670		302	1,812
32,036-32,936		2,671-2,745		338	2,028
32,937-33,837		2,746-2,820		377	2,262
33,838-34,738		2,821-2,895		417	2,502
34,739-35,497		2,896-2,958		460	2,760

60% = \$22,048		FAMILY OF 4 100% = \$36,746		115% = \$42,258	
ANNUAL GROSS		MONTHLY GROSS		MONTHLY FEE	TOTAL OBLIGATION
\$ 0-22,048		\$ 0-1,837		\$ 0	0
22,049-22,949		1,838-1,912		10	60
22,950-23,850		1,913-1,987		18	108
23,851-24,751		1,988-2,063		27	162
24,752-25,652		2,064-2,138		38	228
25,653-26,553		2,139-2,213		52	312
26,554-27,454		2,214-2,288		68	408

Official Notices

31,807-32,707	2,651-2,725	38	228
32,708-33,608	2,726-2,801	52	312
33,609-34,509	2,802-2,876	68	408
34,510-35,410	2,877-2,951	85	510
35,411-36,311	2,952-3,026	105	630
36,312-37,212	3,027-3,101	127	762
37,213-38,113	3,102-3,176	151	906
38,114-39,014	3,177-3,251	177	1,062
39,015-39,915	3,252-3,326	205	1,230
39,916-40,816	3,327-3,401	235	1,410
40,817-41,717	3,402-3,476	267	1,602
41,718-42,618	3,477-3,551	302	1,812
42,619-43,519	3,552-3,626	338	2,028
43,520-44,420	3,627-3,702	377	2,262
44,421-45,321	3,703-3,777	417	2,502
45,322-46,222	3,778-3,852	460	2,760
46,223-47,123	3,853-3,927	505	3,030
47,124-48,024	3,928-4,002	551	3,306
48,025-48,925	4,003-4,077	600	3,600
48,926-49,826	4,078-4,152	651	3,906
49,827-50,727	4,153-4,227	704	4,224
50,728-51,628	4,228-4,302	759	4,554
51,629-52,529	4,303-4,377	816	4,896
52,530-53,430	4,378-4,452	876	5,256
53,431-54,331	4,453-4,527	937	5,622
54,332-55,232	4,528-4,603	1,000	6,000
55,233-55,781	4,604-4,648	1,066	6,396

60% = \$29,764

FAMILY OF 7
100% = \$49,607

115% = \$57,048

ANNUAL GROSS	MONTHLY GROSS	MONTHLY FEE	TOTAL OBLIGATION
\$ 0-29,764	\$ 0-2,480	\$ 0	0
29,765-30,665	2,481-2,555	10	60
30,666-31,566	2,556-2,630	18	108
31,567-32,467	2,631-2,705	27	162
32,468-33,368	2,706-2,781	38	228
33,369-34,269	2,782-2,856	52	312
34,270-35,170	2,857-2,931	68	408
35,171-36,071	2,932-3,006	85	510
36,072-36,972	3,007-3,081	105	630
36,973-37,873	3,082-3,156	127	762
37,874-38,774	3,157-3,231	151	906
38,775-39,675	3,232-3,306	177	1,062
39,676-40,576	3,307-3,381	205	1,230
40,577-41,477	3,382-3,456	235	1,410
41,478-42,378	3,457-3,531	267	1,602
42,379-43,279	3,532-3,606	302	1,812
43,280-44,180	3,607-3,682	338	2,028
44,181-45,081	3,683-3,757	377	2,262
45,082-45,982	3,758-3,832	417	2,502
45,983-46,883	3,833-3,907	460	2,760
46,884-47,784	3,908-3,982	505	3,030
47,785-48,685	3,983-4,057	551	3,306
48,686-49,586	4,058-4,132	600	3,600
49,587-50,487	4,133-4,207	651	3,906
50,488-51,388	4,208-4,282	704	4,224
51,389-52,289	4,283-4,357	759	4,554

52,290-53,190	4,358-4,432	816	4,896
53,191-54,091	4,433-4,507	876	5,256
54,092-54,992	4,508-4,583	937	5,622
54,993-55,893	4,584-4,658	1,000	6,000
55,894-56,794	4,659-4,733	1,066	6,396
56,795-57,048	4,734-4,754	1,134	6,804

60% = \$30,426

**FAMILY OF 8
100% = \$50,709**

115% = \$58,315

ANNUAL GROSS	MONTHLY GROSS	MONTHLY FEE	TOTAL OBLIGATION
\$ 0-30,426	\$ 0-2,535	\$ 0	0
30,427-31,327	2,536-2,610	10	60
31,328-32,228	2,611-2,686	18	108
32,229-33,129	2,687-2,761	27	162
33,130-34,030	2,762-2,836	38	228
34,031-34,931	2,837-2,911	52	312
34,932-35,832	2,912-2,986	68	408
35,833-36,733	2,987-3,061	85	510
36,734-37,634	3,062-3,136	105	630
37,635-38,535	3,137-3,211	127	762
38,536-39,436	3,212-3,286	151	906
39,437-40,337	3,287-3,361	177	1,062
40,338-41,238	3,362-3,436	205	1,230
41,239-42,139	3,437-3,511	235	1,410
42,140-43,040	3,512-3,587	267	1,602
43,041-43,941	3,588-3,662	302	1,812
43,942-44,842	3,663-3,737	338	2,028
44,843-45,743	3,738-3,812	377	2,262
45,744-46,644	3,813-3,887	417	2,502
46,645-47,545	3,888-3,962	460	2,760
47,546-48,446	3,963-4,037	505	3,030
48,447-49,347	4,038-4,112	551	3,306
49,348-50,248	4,113-4,187	600	3,600
50,249-51,149	4,188-4,262	651	3,906
51,150-52,050	4,263-4,337	704	4,224
52,051-52,951	4,338-4,412	759	4,554
52,952-53,852	4,413-4,488	816	4,896
53,853-54,753	4,489-4,563	876	5,256
54,754-55,654	4,564-4,638	937	5,622
55,655-56,555	4,639-4,713	1,000	6,000
56,556-57,456	4,714-4,789	1,066	6,396
57,457-58,315	4,790-4,859	1,134	6,804

60% = \$31,087

**FAMILY OF 9
100% = \$51,812**

115% = \$59,584

ANNUAL GROSS	MONTHLY GROSS	MONTHLY FEE	TOTAL OBLIGATION
\$ 0-31,087	\$ 0-2,590	\$ 0	0
31,088-31,988	2,591-2,666	10	60
31,989-32,889	2,667-2,741	18	108
32,890-33,790	2,742-2,816	27	162
33,791-34,691	2,817-2,891	38	228
34,692-35,592	2,892-2,966	52	312
35,593-36,493	2,967-3,041	68	408
36,494-37,394	3,042-3,116	85	510
37,395-38,295	3,117-3,191	105	630
38,296-39,196	3,192-3,266	127	762

Official Notices

39,197-40,097	3,267-3,341	151	906
40,098-40,998	3,342-3,416	177	1,062
40,999-41,899	3,417-3,491	205	1,230
41,900-42,800	3,492-3,567	235	1,410
42,801-43,701	3,568-3,642	267	1,602
43,702-44,602	3,643-3,717	302	1,812
44,603-45,503	3,718-3,792	338	2,021
45,504-46,404	3,793-3,867	377	2,262
46,405-47,305	3,868-3,942	417	2,502
47,306-48,206	3,943-4,017	460	2,760
48,207-49,107	4,018-4,092	505	3,030
49,108-50,008	4,093-4,167	551	3,306
50,009-50,909	4,168-4,242	600	3,600
50,910-51,810	4,243-4,317	651	3,906
51,811-52,711	4,318-4,392	704	4,224
52,712-53,612	4,393-4,467	759	4,554
53,613-54,513	4,468-4,543	816	4,896
54,514-55,414	4,544-4,618	876	5,256
55,415-56,315	4,619-4,693	937	5,622
56,316-57,216	4,694-4,768	1,000	6,000
57,217-58,117	4,769-4,843	1,066	6,396
58,118-59,018	4,844-4,918	1,134	6,804
59,019-59,584	4,919-4,965	1,203	7,218

FAMILY OF 10

60% = \$31,748

100% = \$52,914

115% = \$60,851

ANNUAL GROSS	MONTHLY GROSS	MONTHLY FEE	TOTAL OBLIGATION
\$ 0-31,748	\$ 0-2,646	\$ 0	0
31,749-32,649	2,647-2,721	10	60
32,650-33,550	2,722-2,796	18	108
33,551-34,451	2,797-2,871	27	162
34,452-35,352	2,872-2,946	38	228
35,353-36,253	2,947-3,021	52	312
36,254-37,154	3,022-3,096	68	408
37,155-38,055	3,097-3,171	85	510
38,056-38,956	3,172-3,246	105	630
38,957-39,857	3,247-3,321	127	762
39,858-40,758	3,322-3,396	151	906
40,759-41,659	3,397-3,471	177	1,062
41,660-42,560	3,472-3,547	205	1,230
42,561-43,461	3,548-3,622	235	1,410
43,462-44,362	3,623-3,697	267	1,602
44,363-45,263	3,698-3,772	302	1,812
45,264-46,164	3,773-3,847	338	2,028
46,165-47,065	3,848-3,922	377	2,262
47,066-47,966	3,923-3,997	417	2,502
47,967-48,867	3,998-4,072	460	2,760
48,868-49,768	4,073-4,147	505	3,030
49,769-50,669	4,148-4,222	551	3,306
50,670-51,570	4,223-4,297	600	3,600
51,571-52,471	4,298-4,372	651	3,906
52,472-53,372	4,373-4,448	704	4,224
53,373-54,273	4,449-4,523	759	4,554
54,274-55,174	4,524-4,598	816	4,896
55,175-56,075	4,599-4,673	876	5,256
56,076-56,976	4,674-4,748	937	5,622

56,977-57,877	4,749-4,823	1,000	6,000
57,878-58,778	4,824-4,898	1,066	6,396
58,779-59,679	4,899-4,973	1,134	6,804
59,680-60,851	4,974-5,070	1,203	7,218

This fee schedule is based on the Minnesota State Median Income of \$36,746 for a four-person household in federal fiscal year 1989. The Bureau of the Census developed the median income estimates for each state from three sources of data: the March 1987 Current Population Survey; the 1980 Census of Population; and 1986 per capita income estimates from the Bureau of Economic Analysis. These median income estimates were published in the *Federal Register*, Volume 53, No. 64/Monday, April 4, 1988, pages 10947 and 10948.

The department shall adjust the fee schedule annually, and publish the adjustments in the *State Register* on the last Monday in June. The adjustments shall be based on the most recent annual state median income as published in the *Federal Register* by the Department of Health and Human Services.

Department of Human Services

Health Care Programs Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to Rules Governing Preadmission Screening and Alternative Care Grants

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose amendments to the rules governing the standards and procedures applicable to alternative care grants under the medical assistance program, *Minnesota Rules*, parts 9505.2455, subparts 5 and 8; 9505.2465, subpart 4; and 9505.2490, subparts 1 and 2.

The adoption of the rule is authorized by *Minnesota Statutes*, section 256B.091, subdivisions 8 and 9, which require the agency to establish procedures for employing or contracting for services and for determining the use of grants for payment of costs of providing care-related supplies, the limits on rates for payment of approved services, and the limits on the total cost of an alternative care grant to an alternative care grant client.

The State Department of Human Services 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:

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

Oral statements will be received during regular business hours over the telephone at (612) 297-4301 by Eleanor Weber and in person at the above address.

All statements of information and opinions shall be accepted until further notice. Any written material received by the State Department of Human Services 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.

Department of Public Service

Energy Division

Notice of Solicitation of Outside Information or Opinions Regarding the Minnesota Energy Code

NOTICE IS HEREBY GIVEN that the Department of Public Service is seeking information or opinions from sources outside the agency in preparing to propose the amendment *Minnesota Rules* Chapter 4215 governing energy matters within the State Building Code. The adoption of the rule is authorized by *Minnesota Statutes*, section 216C.19 subdivision 8, to establish energy standards for building design and construction.

Official Notices

The Department requests information and opinions concerning the subject matter of the rule, including but not limited to, ventilation and other issues related to both residential and nonresidential requirements of the Energy Code. 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:

Bruce Nelson, Senior Engineer, Department of Public Service, Energy Division, 900 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101, (612) 297-2313.

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

All statements of information and opinions shall be accepted until October 1, 1989. Any written material received by the State Department of Public Service 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.

Dated: 12 June 1989

Burl W. Haar
Deputy Commissioner

Minnesota Public Utilities Commission

Notice of Intent to Solicit Outside Information Regarding Proposed Rule Governing Construction Plans for Major Utility Facilities, Docket No. G,E-999/R-89-386.

NOTICE IS HEREBY GIVEN that the Minnesota Public Utilities Commission (Commission) is seeking information or opinions from outside sources in preparing to propose the adoption of rules governing construction plans for major utility facilities. The adoption of the rule is authorized by *Minnesota Statutes* § 216B.08 (1988), which allows the Commission to adopt rules, and *Minnesota Statutes* § 216B.24 (1988), which allows the Commission to review utility plans for contemplated construction of major utility facilities.

The Commission requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views in writing or orally. Written statements or comments should be directed to:

Caroline Heil
Minnesota Public Utilities Commission
780 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Oral statements or comments should be directed to David Jacobson of the Commission Staff at (612) 297-4562. Oral statements or comments will be received during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday.

All statements of information and opinion will be accepted until 4:30 p.m. on July 21, 1989. Any written materials received by the Commission shall become part of the rulemaking record in the event that the rule is adopted.

Mary Ellen Hennen
Executive Secretary

Draft Rules Governing Construction Plans for Major Utility Facilities

7841.0100 DEFINITIONS.

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

Subp. 2. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 3. **Construction.** "Construction" means significant physical alteration of a site to install or enlarge a major utility facility, but does not include activities incident to preliminary engineering or environmental studies.

Subp. 4. **Major utility facility.** "Major utility facility" has the meaning given the term in *Minnesota Statutes*, section 216B.24, subdivision 1.

Subp. 5. **Public utility.** "Public utility" has the meaning given the term in *Minnesota Statutes*, section 216B.02, subdivision 4.

7841.0200 PURPOSE AND SCOPE.

Subpart 1. **Purpose.** The purpose of parts 7841.0100 to 7841.0500 is to prescribe the contents of and procedures for Commission review of construction plans for major utility facilities.

Subp. 2. **Who must file.** Parts 7841.0100 to 7841.0500 apply to any public utility and to any municipally owned gas or electric utility, except any utility subject to the resource planning process prescribed by *Minnesota Rules*, parts 7843.0100 to 7843.0600.

Subp. 3. **Enlargement of existing facilities.** Any enlargement of an existing major utility facility which by itself would meet the definition in part 7841.0100, subpart 4 is considered a major utility facility under parts 7841.0100 to 7841.0500.

7841.0300 CONTENTS OF CONSTRUCTION PLAN FILINGS.

The public utility or municipally owned gas or electric utility shall provide the following information related to the facility which would be constructed:

- A. a physical description of the facility;
- B. to the extent known, the planned location for the facility;
- C. the projected total installed cost, a breakdown of total cost into major components, and the estimated rate effect;
- D. the reason(s) why the construction is considered to be necessary;
- E. a list of alternatives to construction, including demand-side options, and the reason(s) why the alternatives, individually and collectively, are considered to be inadequate; and
- F. a description of how the construction project would be financed.

7841.0400 FILING REQUIREMENTS AND PROCEDURES.

Subpart 1. **Procedural rules.** Except as otherwise indicated in these rules, the procedures prescribed by (draft amendments to) *Minnesota Rules*, parts 7830.0100 to 7830.4400 apply to all construction plan filings.

Subp. 2 **Filing date.** The public utility or municipally owned gas or electric utility may select the filing date, subject to the following restrictions:

- A. A public utility shall submit its filing at least 90 days prior to the planned start of construction.
- B. A municipally owned gas or electric utility shall submit its filing at least 45 days prior to the planned start of construction.

Subp. 3. **Exemption.** A public utility or municipally owned gas or electric utility shall not be subject to these rules for any major utility facility requiring a certificate of need under *Minnesota Statutes*, sections 216B.2421 and 216B.243 and the rules promulgated thereunder.

7841.0500 COMMISSION AUTHORITY AND APPROVAL.

Subpart 1. **Filings by public utilities.**

A. If a public utility commences construction of a major utility facility before the commission acts on the filing, any costs associated with that construction may be disallowed for recovery from ratepayers if approval is not granted under this part.

B. The commission shall grant approval of a major utility facility unless construction would lead to an unnecessary duplication of facilities or a less costly alternative would be an acceptable substitute for the proposed facility. The commission may approve a modified facility if it denies approval of the proposed facility.

Subp. 2. **Filings by municipally owned gas or electric utilities.** The commission may advise a municipally owned gas or electric utility on the reasonable cost of a major utility facility, possible alternatives to construction, and ways to avoid duplication of facilities.

Subp. 3. **Authority of other agencies.** Commission action on a construction plan for a major utility facility does not limit the statutory authority of other agencies in their regulatory responsibilities.

Minnesota Public Utilities Commission

Notice of Intent to Solicit Outside Information Regarding Proposed Rule Governing the Resource Planning Process, Docket No. E-999/R-89-201

NOTICE IS HEREBY GIVEN that the Minnesota Public Utilities Commission (Commission) is seeking information or opinions from outside sources in preparing to propose the adoption of rules governing the resource planning process. The adoption of the rule is authorized by *Minnesota Statutes* § 216B.08 (1989), which allows the Commission to adopt rules; *Minnesota Statutes* § 216B.03 (1988) which allows the Commission to set rates to encourage energy conservation and renewable energy use and to further the goals of *Minnesota Statutes* §§ 216C.05, 216B.164 and 216B.241 (1988); and *Minnesota Statutes* § 216B.24 (1988), which allows the Commission to review utility plans for contemplated construction of major utility facilities.

Official Notices

The Commission requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views in writing or orally. Written statements or comments should be directed to:

Caroline Heil
Minnesota Public Utilities Commission
780 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Oral statements or comments should be directed to David Jacobson of the Commission Staff at (612) 297-4562. Oral statements or comments will be received during regular business hours, 8:00 a.m. to 4:30 pm., Monday through Friday.

All statements of information and opinion will be accepted until 4:30 p.m. on July 21, 1989. Any written materials received by the Commission shall become part of the rulemaking record in the event that the rule is adopted.

Mary Ellen Hennen
Executive Secretary

Draft Rules Governing the Resource Planning Process

7843.0100 DEFINITIONS.

- Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.
- Subp. 2. **Commission.** "Commission" means the Minnesota Public Utilities Commission.
- Subp. 3. **Construction.** "Construction" means significant physical alteration of a site to install or enlarge a major utility facility, but does not include activities incident to preliminary engineering or environmental studies.
- Subp. 4. **Contested case proceeding.** "Contested case proceeding" means a case which has been referred to the Office of Administrative Hearings for the purpose of resolving certain factual disputes.
- Subp. 5. **Department.** "Department" means the Minnesota Department of Public Service.
- Subp. 6. **Expedited proceeding.** "Expedited Proceeding" means the process which is described in (draft amendments to) *Minnesota Rules*, parts 7830.0100 to 7830.4400.
- Subp. 7. **Large energy facility.** "Large energy facility" has the meaning given the term in *Minnesota Statutes*, section 216B.2421, subdivision 2.
- Subp. 8. **Major utility facility.** "Major utility facility" has the meaning given the term *Minnesota Statutes*, section 216B.24, subdivision 1.
- Subp. 9. **Party.** "Party" has the meaning given the term in (draft amendments to) *Minnesota Rules*, parts 7830.0100 to 7830.4400.
- Subp. 10. **Record.** "Record" means all the information filed with the commission in the resource plan proceeding of a utility, including responses to information requests.
- Subp. 11. **Resource Plan.** "Resource plan" means a particular combination of methods which a utility could use to meet the service needs of its customers over the forecast period. These methods include the use, modification, and construction of utility plant and equipment, the purchase of power generated by other entities, the control of customer loads, and the promotion of customer energy conservation.
- Subp. 12. **Utility.** "Utility" means a person, corporation, or other legal entity, but not including a municipally owned electric utility or a non-rate-regulated cooperative electric association, engaged in the production, transmission and retail sale of electricity in the State of Minnesota.

7843.0200 PURPOSE AND SCOPE.

- Subpart 1. **Purpose.** The purpose of parts 7843.0100 to 7843.0600 is to prescribe the contents of and procedures for Commission review of resource plan filings.
- Subp. 2. **Scope.** Parts 7843.0100 to 7843.0600 apply to any utility with more than 1,000 retail customers in the State of Minnesota.

7843.0300 FILING REQUIREMENTS AND PROCEDURES.

- Subpart 1. **Procedural rules.** Except as otherwise indicated in these rules, the procedures prescribed by (draft amendments to) *Minnesota Rules*, parts 7830.0100 to 7830.4400 apply to all resource plan filings.
- Subp. 2. **Filing date.** Beginning July 1, 1991, and every two years thereafter, each utility shall submit a proposed resource plan covering the first 15 calendar years following the filing year.

Subp. 3. **Completeness of filing.** The filing must contain all of the information required by part 7843.0400, unless an exemption has been granted under part 7843.0300, subpart 4. If at any time before September 1 of the filing year the commission determines that the filed information is incomplete or unclear, it may order the utility to augment or clarify the filing.

Subp. 4. **Exemptions from data requirements.** Before submitting a resource plan, the utility may be exempted from any data requirement of this chapter if the utility (1) submits a written request for an exemption from specified rules and (2) shows that the data requirement is unnecessary or may be satisfied by submitting another document. A request for exemption must be filed at least 90 days before the resource plan is due. Interested persons or parties may submit comments on the request within 30 days of the filing. The commission shall, as soon as practicable, provide a written response to the request for exemption and include the reasons for its decision.

Subp. 5. **Copies of the filings.** Fifteen copies of the resource plan and supporting materials must be filed with the commission. The commission may request additional copies of combined and common filings. The utility shall also provide copies to the department, the Residential Utilities Division of the Office of the Attorney General, the Minnesota Environmental Quality Board and member agencies, and other interested persons or parties who request copies. The utility shall maintain a distribution list for the copies.

Subp. 6. **Changes to filings.** After a resource plan is filed, each page of a change or correction to a previously filed page must be marked with the word "REVISED" and with the date the revision was made. The utility shall send to persons receiving copies of the resource plan a like number of copies of changed or corrected pages.

Subp. 7. **Intervention.** Interested persons may become, or may petition to become, parties under (draft amendments to) *Minnesota Rules*, parts 7830.0100 to 7830.4400. The Minnesota Environmental Quality Board may also petition as of right in any resource plan proceeding. The deadline for intervention is November 1 of the year the utility's proposed resource plan is filed.

Subp. 8. **Information requests.** All parties shall comply with reasonable requests for information by the commission, other parties, and other interested persons. A copy of each information request must be provided to the commission and to each known party. At least one copy of information provided to a party or other interested person must be filed with the commission; any other party or interested person may request a copy of the information provided.

Subp. 9. **Expedited proceeding.** The commission shall conduct the resource planning process as an expedited proceeding, unless at some point during the process the commission determines that material facts are in dispute and a contested case proceeding is necessary.

Subp. 10. **Working groups.** The department may establish working groups to review and discuss the filings. No more than one working group may be established for each utility. A utility shall be allowed at least one representative on any working group created to review its filing. The department shall attempt to obtain a diversity of backgrounds and perspectives in creating a working group. The department shall notify the commission of the membership of each working group. The commission shall be notified of and commission staff may attend meetings of a working group, unless a contested case proceeding has been ordered by the commission.

Subp. 11. **Written comments and proposed alternative resource plans.** Working groups, parties, and other interested persons shall have until November 1 of the filing year to review and comment upon the resource plan filings. Working groups, parties, and other interested persons may also file proposed alternative resource plans, as described in subpart 12, by November 1 of the filing year. Copies of comments and proposed alternative resource plans must be served on all persons on the official service list.

Subp. 12. **Proposed alternative resource plans.** The working group, parties, and other interested persons may express support for the proposed resource plan filed by a utility. Alternatively, the working group, parties, and other interested persons may file proposed resource plans different from the plan proposed by the utility. When a plan differs from that submitted by the utility, the plan must be accompanied by a detailed narrative and quantitative discussion of why the proposed changes would be in the public interest, considering the factors listed in part 7843.0500, subpart 3.

Subp. 13. **Response comment period.** Working groups, parties, and other interested persons may file responses to the comments and to the proposed alternative resource plans of other parties or interested persons during the period November 1 to December 31 of the filing year. One purpose of this response comment period is to clarify and narrow differences among the participants in the proceeding.

Subp. 14. **Requests for contested case hearing.** Between January 1 and January 31 of the year following the filing year, parties in the resource plan proceeding of a utility may request a contested case hearing. Requests must indicate the general areas of disagreement with the utility's proposed resource plan. Other parties may file responses to a request within 15 days of the date of the request. The commission shall make a decision on such requests as soon as practicable. If the commission orders a contested case hearing, it may limit the issues to be considered. In deciding whether to limit the issues, the Commission shall consider the following factors: the extent to which the utility's proposed resource plan differs from its most recently approved plan; the number and importance of issues in dispute among the parties; and the extent to which the existing record is adequate for undisputed issues.

Official Notices

7843.0400 CONTENTS OF RESOURCE PLAN FILINGS.

Subpart 1. **Advance forecasts.** The utility shall include in its filing all information provided annually to the department and the Minnesota Environmental Quality Board in accordance with *Minnesota Statutes*, sections 116C.54 and 216C.17, and *Minnesota Rules*, parts 4100.0200 to 4100.2800.

Subp. 2. **Resource options.** The utility shall file a general description of its plan for meeting the needs of its customers over the forecast period. The filing must contain a list of possible resource options, which must include, at a minimum, new generating facilities of various types and sizes and with various fuel types, new transmission facilities of various types and sizes, upgrading of existing generation and transmission equipment, life extensions of existing generation and transmission equipment, load control equipment, utility-sponsored conservation programs, purchases from non-utility entities, and purchases from other utilities. The utility may seek input from the commission regarding the specific resource options to be included.

Subp. 3. **Supporting information.**

A. For each resource option, the supporting information must include a general evaluation of the option, including its availability, estimated reliability, economic costs, and employment and environmental impacts.

B. For the proposed plan as a whole, the supporting information must include a detailed narrative and quantitative discussion of why the plan would be in the public interest, considering the factors given in part 7843.0500, subpart 3.

Subpart 4. **Combined and common filings.** Utilities may combine their individual filings into a single larger filing, as long as such action does not lead to a loss of information. Information common to two or more of the utilities need only be submitted once, as long as the filing clearly indicates the utilities to which the information applies.

7843.0500 APPROVAL OF RESOURCE PLANS.

Subpart 1. **Decision options.** The commission may approve the utility's proposed resource plan or a modified plan based upon available information. If the commission determines there is insufficient information upon which to approve a resource plan, it may order additional administrative proceedings to obtain the desired information.

Subp. 2. **Selection of plan.** If the commission determines that sufficient information is available, it shall approve a resource plan which provides the most acceptable combination of resource options, based on the factors listed in subpart 3.

Subp. 3. **Factors to consider.** In deciding on a resource plan, the commission shall consider the characteristics of the available resource options and of the proposed plans as a whole. Resource options and resource plans must be evaluated on their ability to:

A. Maintain or improve the adequacy and reliability of utility service;

B. Keep the customers' bills and the utility's rates as low as practicable, given regulatory and other constraints;

C. Minimize adverse effects upon the natural and socioeconomic environments;

D. Enhance the utility's ability to respond to changes in the financial, social and technological factors affecting its operations; and

E. Limit the risk of adverse effects on the utility and its customers from financial, social, and technological factors which the utility cannot control.

Subp. 4. **Conservation targets.** The commission shall specify as part of the approved resource plan the incremental level of energy and peak demand savings expected to be achieved by the utility's conservation and load management programs during third, fourth, fifth, and sixth calendar years after the filing date.

Subp. 5. **Issues requiring further consideration.** In an approval order, the commission may direct the utility to provide in its next resource plan filing a discussion of specified issues. Such issues may include those not totally resolved in the current proceeding and those for which the state of knowledge is changing substantially between resource plan filings.

Subp. 6. **Authority of other agencies.** Approval of a resource plan does not limit the statutory authority of other agencies in their regulatory responsibilities.

7843.0600 RELATIONSHIP TO OTHER COMMISSION PROCESSES.

Subpart 1. **Proceedings begun before selection of resource plan.** Any commission proceeding involving construction, acquisition, or disposition of resource options by a utility which is started before the commission's final order on the utility's resource plan may be completed if the commission determines that completion would be in the public interest.

Subp. 2. **Future planning for approved resource options.** When the commission includes a resource option in an approved resource plan, the commission expects the utility to proceed with necessary planning for that resource option. The utility must not cancel or modify an approved resource option without prior approval of the commission. The utility shall inform the commission and all other parties to the last resource plan proceeding of circumstances which may justify cancellation or modification of an approved resource option.

Subp. 3. **Certificate of need process.** Except upon a showing of an emergency, a utility shall not submit a certificate of need application for a large energy facility, unless the general type of facility is included in its most recently approved resource plan. An emergency must be deemed to exist if failure to consider the certificate of need application could reasonably result in an electricity supply which is inadequate, unreliable, unnecessarily expensive, or environmentally unacceptable.

Subp. 4. **Construction of major utility facilities.** A utility submitting a proposed resource plan shall be exempt from the filing requirements of *Minnesota Rules*, parts 7841.0100 to 7841.0500. However, if a utility proceeds with construction of, or planning for the construction of, a major utility facility not in the utility's most recently approved resource plan, the commission may review the prudence of such construction or planning in the utility's next resource plan and general rate case proceedings.

Subp. 5. **Ratemaking.** During general rate case proceedings, the commission may consider a utility's performance in planning to meet the needs of its customers. Specifically, the commission may consider the utility's efforts in complying with approved resource plans and in making appropriate adjustments to those plans as circumstances change.

Subp. 6. **Conservation improvement program filings.** In preparing its conservation improvement program filings under *Minnesota Statutes*, Section 216B.241, the utility shall, to the extent practicable, consider and comply with the conservation targets established under part 7843.0500, subpart 4.

Department of Revenue

Appeals and Legal Services Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Administration of the Sales Tax; Administration of the Use Tax; and Payments, Returns, Assessments, and Collections

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 amendment of the rules governing administration of the sales tax; administration of the use tax; and payments, returns, assessments, and collections. The adoption of these rules are authorized by *Minnesota Statutes*, section 297A.29, which required the agency to promulgate all needful rules for the administration and enforcement of *Minnesota Statutes*, sections 297A.01 to 297A.44 not inconsistent with its provisions.

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:

Stephen E. Krenkel
Department of Revenue
Appeals and Legal Services Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-2220

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

All statements of information and opinions shall be accepted until June 30, 1989. 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 the rule is adopted.

Dated: 8 June 1989

Stephen E. Krenkel
Attorney

Department of Revenue

Appeals and Legal Services Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Sales and Use Taxation: Advertising Agencies

NOTICE IS HEREBY GIVEN that the State Department of Revenue is seeking information or opinions from sources outside the

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agency in preparing to propose the amendment of the rules governing sales and use taxation imposed on advertising agencies. The adoption of these rules are authorized by *Minnesota Statutes*, section 297A.29, which required the agency to promulgate all needful rules for the administration and enforcement of *Minnesota Statutes*, sections 297A.01 to 297A.44 not inconsistent with its provisions.

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:

Stephen E. Krenkel
Department of Revenue
Appeals and Legal Services Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-2220

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

All statements of information and opinions shall be accepted until June 30, 1989. 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 the rule is adopted.

Dated: 8 June 1989

Stephen E. Krenkel
Attorney

Minnesota Sentencing Guidelines Commission

Notice of Public Hearing to Consider Modifications to the Sentencing Guidelines

The Minnesota Sentencing Guidelines Commission will hold a public hearing on Thursday, July 20, 1989, at 5:30 PM in Hearing Room 10, Ground Floor, State Office Building, 100 Constitution Ave., St. Paul, Minnesota. The public hearing is to consider proposed modifications to the sentencing guidelines regarding the ranking for new and amended crimes passed during the 1989 legislative session, increased durations for murder, and several housekeeping changes.

Additional copies of the proposed modifications that include proposed modifications to the Commentary are available, free of charge, by contacting the Minnesota Sentencing Guidelines Commission at 51 State Office Building, St. Paul, MN 55155, or by calling (612) 296-0144.

All interested persons are encouraged to attend the hearing and offer comments. Persons wishing to speak may register in advance by contacting the Commission staff at the above address/telephone number.

The Commission will hold the record open for five days after the public hearing to accept additional written comment on the proposed modifications. On July 25, 1989, the Commission will meet at 5:30 pm in Room 10, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota to formally adopt or reject the proposed modifications. If adopted, the modifications as indicated will become effective August 1, 1989. Those requiring Legislative review will become effective August 1, 1990 absent legislative action to the contrary.

I. PROPOSED MODIFICATIONS EFFECTIVE AUGUST 1, 1989, IF ADOPTED

Proposed Modifications to Section II. B. 3. c.

A prior misdemeanor or gross misdemeanor sentence shall not be used in computing the criminal history score if a period of ten years has elapsed since the offender was adjudicated guilty for that offense, to the sentencing date for the current offense.

Proposed Modifications to Section II. C. Presumptive Sentence: . . . Similarly, when the current conviction offense is ~~sale~~ of a severity level VI drug crime or sale of cocaine and there was a previous adjudication of guilt for a ~~sale~~ of a severity level VI or above drug crime or sale of cocaine before the current offense occurred, the presumptive disposition is Commitment to the Commissioner of Corrections. The presumptive duration of sentence is the fixed duration indicated in the appropriate cell of the Sentencing Guidelines Grid.

Proposed Modifications to Section II. D. 2. b. Factors that may be used as reasons for departure (Aggravating Factors):

(8) The offender was convicted of a controlled substance offense in violation of chapter 152 and the offense was committed in a park zone or in a school zone as defined in chapter 152.01.

This aggravating factor shall not apply to an offender convicted of unlawfully possessing controlled substances in a private residence located within a school zone or a park zone if no person under the age of 18 was present in the residence when the offense was committed.

This aggravating factor shall not apply to an offender convicted under chapter 152.022, subdivision 1, clause (5), (ii) or under chapter 152.023, subdivision 2, clause (5).

Proposed Modifications to Section II. E. Mandatory Sentences:

When an offender has been sentenced according to 609.196, Mandatory Penalty for Certain Murderers, or has been sentenced according to 609.346, subd. 2a, which provides for a mandatory sentence of 37 years for certain sex offenders; the statutory provision determines the presumptive sentence.

Proposed Modifications to Section II. G. Convictions for Attempts or Conspiracies:

Conspiracy/Attempted Murder, 1st Degree

(The Figures "0" through "6" represent the criminal history score)

<u>0</u> <u>180</u> 176-184	<u>1</u> <u>190</u> 186-194	<u>2</u> <u>200</u> 196-204	<u>3</u> <u>210</u> 206-214	<u>4</u> <u>220</u> 216-224	<u>5</u> <u>230</u> 226-234	<u>6</u> <u>240</u> 236-240
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Proposed Modifications to Section IV. SENTENCING GUIDELINES GRID:

Severity Level IX—Murder 3rd Degree, Murder 2nd Degree (felony murder)

(The Figures "0" through "6" represent the criminal history score)

<u>0</u> <u>150</u> 144-156	<u>1</u> <u>165</u> 159-171	<u>2</u> <u>180</u> 174-186	<u>3</u> <u>195</u> 189-201	<u>4</u> <u>210</u> 204-216	<u>5</u> <u>225</u> 219-231	<u>6</u> <u>240</u> 234-246
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Severity Level X—Murder, 2nd Degree (with intent)

(The Figures "0" through "6" represent the criminal history score)

<u>0</u> <u>306</u> 299-313	<u>1</u> <u>326</u> 319-333	<u>2</u> <u>346</u> 339-353	<u>3</u> <u>366</u> 359-373	<u>4</u> <u>386</u> 379-393	<u>5</u> <u>406</u> 399-413	<u>6</u> <u>426</u> 419-433
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(This appears at the bottom of the grid.)

1st Degree Murder is excluded from the guidelines by law and continues to have a mandatory life sentence.

See Section II. E. Mandatory Sentences for policy regarding those sentences controlled by law.

Proposed Modifications to Section V. Offense Severity Reference Table are as follows:

- VIII { Controlled Substance Crime in the First Degree—152.021
- VII { Controlled Substance Crime in the Second Degree—152.022
 - Sale of Cocaine—152.15, subd. 1(1) (i), (ii), (v), & (vi)
 - Sales of Hallucinogens or PCP—152.15, subd. 1(1), (iii), (v), & (vi)
 - Sale of Heroin—152.15, subd. 1(1) (ii), (v), & (vi)
 - Sale of Remaining Schedule I & II Narcotics—152.15, subd. 1(1) (iv), (v), & (vi)
- VI { Bringing Stolen Goods into State (over \$2,500)—609.525
Controlled Substance Crime in the Third Degree—152.023
Criminal Vehicular Operation—609.21, subd. 1 & 3
Precious Metal Dealers, Receiving Stolen Goods(over \$2,500)—609.53, subd. 1(a)
Precious Metal Dealers, Receiving Stolen Goods (all values)—609.53, subd. 3(a)
Precious Metal Dealers, Receiving Stolen Goods (over \$2,500)—609.526, (1)
Precious Metal Dealers, Receiving Stolen Goods (all values)—609.526, (3)
Receiving Stolen Goods (over \$2,500)—609.525; 609.53
 - Sale of Cocaine—152.15, subd. 1(2)
 - Sale of Hallucinogens or PCP—152.15, subd. 1(3)(ii)
 - Sale of Heroin—152.15, subd. 1(2)
 - Sale of Remaining Schedule I & II Narcotics—152.15, subd. 1(2)

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- V { Bringing Stolen Goods into State (\$1,000-\$2,500)—609.525
Criminal Vehicular Operation—609.21, subd. 1 & 3
Receiving Stolen Goods (\$1,000-\$2,500)—609.525; 609.53

- IV { Bringing Stolen Goods into State (\$301-\$999)—609.525
Controlled Substance Crime in the Fourth Degree—152.024
Criminal Vehicular Operation—609.21, subd. 2 & 4
Precious Metal Dealers, Receiving Stolen Goods (\$150-\$2,500)—609.53, subd. 1(a)
Precious Metal Dealers, Receiving Stolen Goods (over \$2,500)—609.53, subd. 2(a)
Precious Metal Dealers, Receiving Stolen Goods (\$300-\$2,500)—609.526 (1) & (2)
Receiving Stolen Goods (\$301-\$999) Over \$2,500—609.525; 609.53
Receiving Stolen Property (firearm)—609.53, subd. 1(4)
Sale of Remaining Schedule I, II, & III Non-Narcotics—152.15, subd. 1(3)(i)
Theft of Motor Vehicle—609.52, subd. 2(17); 609.52, subd. 3(4)(f)

- III { Criminal Vehicular Operation—609.21, subd. 2 & 4
Depriving Another of Custodial or Parental Rights—609.26, subd. 6(2)
Dangerous Smoking—609.576, subd. 2
Dangerous Trespass, Railroad Tracks—609.60; 609.85(1)
False Traffic Signal—609.851, subd. 2
Intentional Release of Harmful Substance—624.732, subd. 2
Obstructing Legal Process, Arrest, or Firefighting—609.50, subd. 2
Possession of Cocaine—152.15, subd. 2(1)
Possession of Hallucinogens or PCP—152.15, subd. 2(2)
Possession of Heroin—152.15, subd. 2(1)
Possession of Remaining Schedule I & II Narcotics—152.15, subd. 2(1)
Precious Metal Dealers, Receiving Stolen Goods (less than \$150)—609.53, subd. 1(a)
Precious Metal Dealers, Receiving Stolen Goods (\$150-\$2,500)—609.53, subd. 2(a)
Precious Metal Dealers, Receiving Stolen Goods (less than \$300)—609.526, (3)
Sale of Marijuana/Hashish/Tetrahydrocannabinols—152.15, subd. 1(3)(i)
Sale of Remaining Schedule I, II, & III Non-Narcotics—152.15, subd. 1(3)(ii)
Sale of a Schedule IV Substance—152.15, subd. 1(4)(i)
Unauthorized Presence at Camp Ripley—609.396, subd. 2

- II { Controlled Substance Crime in the Fifth Degree—152.025
Precious Metal Dealers, Receiving Stolen Goods (less than \$150)—609.53, subd. 2(a)
Sale of Marijuana/Hashish/Tetrahydrocannabinols—152.15, subd. 1(3)(ii)
Sale of a Schedule IV Substance—152.15, subd. 1(4)(ii)

- I { Assaults Motivated by Bias—609.2231, subd.4(b)
Criminal Damage to Property Motivated by Bias—609.595, subd. 1a, (a)
Depriving Another of Custodial or Parental Rights—609.26, subd. 6 (1)
Fraudulent Procurement of a Controlled Substance—152.15, subd. 3
Possession of Marijuana/Hashish/Tetrahydrocannabinols—152.15, subd. 2(2)
Possession of Remaining Schedule I, II, & III Non-Narcotics—152.15, subd. 2(2)
Possession of Schedule IV Substance—152.15, subd. 2(3)
Sale of Schedule V Substance—152.15, subd. 1(5)(i)
Sale of Simulated Controlled Substance—152.097; 152.15, subd. 2b
Selling Unlawful Acts Involving Liquor that Causes Injury—340A.701
Unauthorized Use of a Motor Vehicle—609.55

Note: A new clause was added to the definition section of Check Forgery, M.S. 609.631 which reads: (2) falsely endorses or alters a check so that it purports to have been endorsed by another. The Commission proposes to rank this section the same as other check forgery offenses. It is not noted in the list of new felony rankings above, because the statutory cite is the same as the current cite.

II. PROPOSED MODIFICATIONS EFFECTIVE AUGUST 1, 1990 BARRING LEGISLATIVE ACTION TO THE CONTRARY, IF ADOPTED

Proposed Modifications to the Theft Related Offense List:

False Representations

268.18, subd. 3

Theft by False Representation

609.52, subd. 2 (3), (b) & (c)

III. PROPOSED MODIFICATIONS TO THE COMMENTARY, EFFECTIVE AUGUST 1, 1989, IF ADOPTED

Proposed Modifications to Comment II.A.03. (Exclusions from Offense Severity Reference Table):

1. Abortion—617.20; 617.22; 145.412
2. Aiding suicide—609.215
3. Altering engrossed bill—3.191
4. Animal fighting—343.31
5. Bigamy—609.355
6. Cigarette tax and regulation violations—297.12, subd. 1
7. Collusive bidding/price fixing—325D.53, subs. 1(3), 2 & 3
8. Concealing criminal proceeds; engaging in business—609.496; 609.497
- ~~8-9.~~ Corrupting legislator—609.425
- ~~9-10.~~ Criminal sexual conduct, third degree—609.344, subd. 1(a)
- ~~10-11.~~ Criminal sexual conduct, fourth degree—609.345, subd. 1(a) (By definition the perpetrator must be a juvenile.)
- ~~11-12.~~ Falsely impersonating another—609.83
13. Forced execution of a declaration—145B.10, subd. 3
- ~~12-14.~~ Gambling regulation violations—349.22, subd. 3
- ~~13-15.~~ Hazardous wastes—609.671; 115.071, subd. 2(2)
- ~~14-16.~~ Horse racing—prohibited act—~~299J.29~~ 240.25
- ~~15-17.~~ Killing a police dog—609.596, subd. 1
- ~~16-18.~~ Incest—609.365
- ~~17-19.~~ Metal penetrating bullets—624.74
- ~~18-20.~~ Misprision of treason—609.39
- ~~19-21.~~ Motor vehicle excise tax—297B.10
- ~~20-22.~~ Obscene materials; distribution—617.241, subd. 4
- ~~21-23.~~ Obstructing military forces—609.395
- ~~22-24.~~ Penalties (sales tax violations)—297A.39
- ~~23-25.~~ Pipeline safety—299J.07, subd. 2
- ~~24-26.~~ Police radios during commission of crime—609.856
- ~~25-27.~~ Possession of pictorial representations of minors—617.247
- ~~26-28.~~ Prohibiting promotion of minors to engage in obscene works—617.246
29. Racketeering, criminal penalties (RICO)—609.904
- ~~27-30.~~ Sales tax without permit, violations—297A.08
31. State lottery fraud—609.651
32. Subdivided land fraud—83.43
- ~~28-33.~~ Treason—609.385
34. Unauthorized computer access—609.891
35. Warning subject of investigation—609.4971
36. Warning subject of surveillance or search—609.497
- ~~29-37.~~ Wire communications violations—626A.02, subd. 4; 626A.03, subd. 1(b)(ii); 626A.26, subd. 2(1)(ii)

Note: Two new hazardous and infectious waste crimes were created by the legislature which are proposed to be included in the Unranked Offense List. These offenses involve the failure to report a release of a hazardous substance or an extremely hazardous substance and the disposing of infectious wastes. The statutory cite is the same as the current cite noted above for the offense of Hazardous Wastes.

Proposed Modifications to Comment II. B. 101.: The Commission recognized that determining the severity level of the prior felonies may be difficult in some instances. The appropriate severity level shall be based on the severity level ranking of the prior offense of conviction that is in effect at the time the offender commits the current offense. It was contemplated that the sentencing court, in its discretion, should make the final determination as to the weight accorded prior felony sentences.

Proposed Modifications to Comment II. D. (Factors that may be used as Reasons for Departure): II.D.203. A special sentencing provision was established by the legislature under M.A. 609.1352 that is available to judges when sentencing certain sex offenders.

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The use of this sentencing provision would constitute a departure under the sentencing guidelines and a judge must provide written reasons which specify the substantial and compelling nature of the circumstances.

Proposed Modifications to Comment II. E. Mandatory Sentences:

II.E.01. The types of offenses that may involve a mandatory minimum sentence or a mandatory sentence include offenses involving dangerous weapons, a second or subsequent criminal sexual conduct offense, a second or subsequent controlled substance offense, and certain 2nd and 3rd degree murder offenses when the offender has a prior conviction for a "heinous" offense as described by statute.

~~II.E.01.~~ II.E.02. The Commission attempted to draw . . .

~~II.E.02.~~ II.E.03. In 1981 the mandatory minimum . . .

~~II.E.03.~~ II.E.04. In State v. Feinstein . . .

Proposed Modifications to Comment II. F. 03: If an offender is under the custody of the Commissioner of Corrections pursuant to a sentence for an offense committed on or before April 30, 1980, and if the offender is convicted of a new felony committed on or after May 1, 1980, and is given a presumptive sentence to run consecutively to the previous indeterminate sentence, the phrase "completion of any incarceration arising from the prior sentence" means the target release date which the Commission of Corrections assigned to the inmate for the offense committed on or before April 30, 1980 or the date on which the inmate completes any incarceration assigned as a result of a revocation of parole connected with the preguidelines offense.

Proposed Modifications to Comment III. A. 202 (Establishing Conditions of Stayed Sentences):

III.A.202. While the Commission has resolved not to develop guidelines for nonimprisonment sanctions at this time, the Commission believes it is important for the sentencing judge to consider proportionality when pronouncing a period of local confinement as a condition of probation. This is particularly important given Minnesota Statutes § 609.135, subd. 7, which states that an offender may not demand execution of sentence. The period of local confinement should be proportional to the severity of the conviction offense and the prior criminal history score of the offender. Therefore, the period of local confinement should, generally, not exceed the term of imprisonment that would be served if the offender were to have received an executed prison sentence according to the presumptive guidelines duration.

State Board of Social Work

Notice of Changes in Social Work Experience and Degree Requirement at the Licensed Social Work (Baccalaureate) Level Only

As of June 12, 1989, the Minnesota State Board of Social Work will accept applications from individuals meeting the following criteria:

1. Individuals who will receive a four-year baccalaureate degree by **June 30, 1989, and have been employed at a supervised social work position for two years or 4,000 hours.** (Experience may be met before or after degree.)

OR

2. Individuals who have a four-year baccalaureate degree **and** have been employed at a supervised social worker position between **June 30, 1979 and June 30, 1989.** (Experience extended for five years.)

OR

3. **Exceptions**—Individuals who have a four-year baccalaureate degree and have been employed at a supervised social work position and obtained some of that experience prior to June 30, 1979, but who are currently employed at a supervised social work position and have been so for a minimum of nine months (individuals with large gap in social work experience.)

DEADLINE FOR APPLICATIONS: Postmarked June 30, 1989

*Applications may be obtained by calling the Minnesota Board of Social Work office at 612-643-2580, or by written request or visiting the office at 2700 University Avenue West, Suite 225, St. Paul, MN, 55114.

State Board of Social Work

Notice of Solicitation of Outside Information or Opinion Regarding Proposed Permanent Rules Governing the Licensure of Social Workers

NOTICE IS HEREBY GIVEN that the State of Minnesota Board of Social Work is seeking information or opinions from sources outside the board in preparing to propose the adoption of permanent rules governing licensure of social workers, including but not limited to procedures and standards relating to licensing requirements, scope of authorized practice, fees, continuing education requirements, rules of conduct and disciplinary procedures. The adoption of the rules is authorized by *Minnesota Statutes*, Section 148B.20, which requires the board to adopt and enforce rules for social work licensing.

The State of Minnesota Board of Social Work requests information and opinions concerning the subject matter of the rules. 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:

Mary Ann Murphy
Executive Director
Board of Social Work
2700 University Avenue West, Suite 225
St. Paul, Minnesota 55114

Oral statements will be received during regular business hours over the telephone at 612-643-2587 and in person at the above address.

All statements of information and opinion shall be accepted until July 31, 1989. Any written material received by the State of Minnesota Board of Social Work 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: 12 June 1989

Mary Ann Murphy
Executive Director

Minnesota Department of Trade and Economic Development

Designation of Distressed Counties

Minnesota Statutes 297A.257 direct that the Commissioner of Trade and Economic Development designate annually on June 1, certain counties in the state as "economically distressed" if they qualify under provisions of the statute. There are two such provisions effective July 1, 1988 and beyond:

(1) That the county had an average unemployment rate of 10 percent or higher during the previous 12 months ending April 30 of the current year.

(2) That the average unemployment rate for the county was greater than 110 percent of the state average *and* 20 percent or more of the county's economy is dependent on agriculture.

Three counties qualify by meeting the 10 percent or more average unemployment rate criterion (May 1988-April 1989):

Clearwater	13.7%
Marshall	12.2%
Red Lake	14.8%

An additional thirty-four counties qualify by meeting the 20 percent or more agricultural dependency criterion *and* having unemployment rates 110 percent above the statewide average of 4.1 percent.

Aitkin	21.9/9.4	Martin	24.9/5.1
Becker	22.6/7.0	Meeker	36.1/7.4
Big Stone	28.5/5.0	Mille Lacs	23.0/5.7
Carlton	21.2/6.9	Morrison	25.7/7.2
Chippewa	23.1/5.3	Murray	35.3/5.5
Cottonwood	41.5/5.5	Norman	41.8/6.5
Dodge	23.3/4.6	Ottertail	27.4/5.8

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Faribault	38.0/4.7	Pennington	20.1/6.8
Fillmore	35.7/5.0	Polk	30.7/7.0
Grant	39.1/6.0	Pope	36.6/5.3
Jackson	43.7/5.3	Renville	34.9/6.0
Kanabec	20.6/8.4	Sibley	35.0/5.4
Kittson	47.0/8.4	Swift	36.5/5.2
Koochiching	20.1/5.8	Todd	33.9/6.5
Le Sueur	24.6/6.5	Wabasha	29.8/4.5
Lincoln	36.0/4.7	Wadena	24.8/5.9
Mahnomen	26.6/7.4	Wilkin	31.9/5.0

These thirty-seven counties are therefore declared as meeting the statutory provisions and certified as distressed counties under *Minnesota Statutes*, Chap. 297A.257.

The information used to make these determination was supplied by the Minnesota Department of Jobs and Training, State Demographers Office, State Planning Agency and the Bureau of Economic Analysis, U.S. Department of Commerce.

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over \$2,000.

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

Commodities contracts with an estimated value of \$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.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek STATE REGISTER Contracts Supplement, published every Thursday. Call (612) 296-0931 for subscription information. Thank you.

Department of Administration: Materials Management Division

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

Commodity: Used power squaring shear
Contact: Doug Thompson 612-296-3775

Bid due date at 2pm: June 20
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 79000 94731

Commodity: 7-passenger van (Spec V-8, K-88)
Contact: Brenda Theilen 612-296-9075
Bid due date at 2pm: June 22
Agency: Natural Resources Department
Deliver to: Grand Rapids
Requisition #: 29000 52136

Commodity: Editing recorder, etc.
Contact: Pam Anderson 612-296-1053
Bid due date at 2pm: June 22
Agency: Anoka Ramsey Community College
Deliver to: Coon Rapids
Requisition #: 27152 46625

Commodity: Lease/purchase of Xerox 5090
Contact: Teresa Ryan 612-296-7556
Bid due date at 2pm: June 21
Agency: Normandale Community College
Deliver to: Bloomington
Requisition #: 27156 10484

Commodity: Rubbish disposal
Contact: Joyce Dehn 612-297-3830
Bid due date at 2pm: June 23
Agency: Correctional Facility
Deliver to: St. Cloud
Requisition #: Price Contract

Commodity: Rubbish disposal
Contact: Joyce Dehn 612-297-3830
Bid due date at 2pm: June 23
Agency: Southwest State University
Deliver to: Marshall
Requisition #: Price Contract

State Contracts and Advertised Bids

Commodity: Track type tractor
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: June 23
Agency: Transportation Department
Deliver to: Detroit Lakes
Requisition #: 79382 01669

Commodity: Mobile radios
Contact: Pam Anderson 612-296-1053
Bid due date at 2pm: June 23
Agency: DNR
Deliver to: Various
Requisition #: 29000 52103

Commodity: Maintenance for typewriters and calculators
Contact: Don Olson 612-296-3771
Bid due date at 2pm: June 23
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Tile—furnish and install
Contact: Pam Anderson 612-296-1053
Bid due date at 2pm: June 26
Agency: North Hennepin Community College
Deliver to: Minneapolis
Requisition #: 27000 10220

Commodity: Furniture and shelving
Contact: Jack Bauer 612-296-2621
Bid due date at 2pm: June 26
Agency: Itasca Community College
Deliver to: Grand Rapids
Requisition #: 02310 16919

Commodity: Business tax model and documentation
Contact: Margaret Frank 612-296-3778
Bid due date at 2pm: June 26
Agency: Revenue Department
Deliver to: St. Paul
Requisition #: 67350 10560

Commodity: Truck mounted Dunbar Tiko crane
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: June 26
Agency: Transportation Department
Deliver to: Detroit Lakes
Requisition #: 79382 01663

Commodity: Furniture
Contact: Jack Bauer 612-296-2621
Bid due date at 2pm: June 26
Agency: Community College
Deliver to: Grand Rapids
Requisition #: 02310 16923

Commodity: Jeep Cherokee 89 or 90
Contact: Brenda Thielen 612-296-9075
Bid due date at 2pm: June 26
Agency: Natural Resources Department
Deliver to: Grand Rapids
Requisition #: 29000 51710

Commodity: Janitorial service
Contact: Joyce Dehn 612-297-3830
Bid due date at 2pm: June 26
Agency: Jobs and Training Department
Deliver to: Roseau
Requisition #: Price Contract

Commodity: Microcomputers
Contact: Joan Breisler 612-296-9071
Bid due date at 2pm: June 26
Agency: State Treasurer's Office
Deliver to: St. Paul
Requisition #: 64100 01535

Commodity: Walk behind floor scrubber
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: June 27
Agency: State University
Deliver to: Bemidji
Requisition #: 26070 14509

Commodity: Overhead projects #2
Contact: Don Olson 612-296-3771
Bid due date at 2pm: June 28
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Janitorial service
Contact: Joyce Dehn 612-297-3830
Bid due date at 2pm: June 26
Agency: Jobs & Training Department
Deliver to: Park Rapids
Requisition #: Price Contract

Commodity: Janitorial service
Contact: Joyce Dehn 612-297-3830
Bid due date at 2pm: June 26
Agency: Jobs & Training Department
Deliver to: Cambridge
Requisition #: Price Contract

Commodity: Portable radios
Contact: Pam Anderson 612-296-1053
Bid due date at 2pm: June 27
Agency: State University
Deliver to: Winona
Requisition #: 26074 12511

Commodity: Facsimile machines
Contact: Don Olson 612-296-3771
Bid due date at 2pm: June 28
Agency: Administration Department: Print Communications
Deliver to: Various
Requisition #: Price Contract

State Contracts and Advertised Bids

Department of Administration: Print Communications Division

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: Citation and notification of penalty, 10M 4-part sets, 9½" × 11" overall, type to set, 1-sided

Contact: Printing Buyer's Office

Bids are due: June 21

Agency: Labor & Industry Department

Deliver to: St. Paul

Requisition #: 7746

Commodity: NARUC stamps, 500M labels, pressure sensitive, 1" × 1¼", 1-sided, camera ready

Contact: Printing Buyer's Office

Bids are due: June 21

Agency: Transportation Department

Deliver to: St. Paul

Requisition #: 7695

Looking at Market Expansion?

A Basic Guide to Exporting. Step-by-step look at developing a profitable international trade, this book reveals export strategy and advice, market research, channels of distribution, making contacts, selling overseas, pricing and terms, financing the sale, export regulations, customs benefits, tax incentives, shipping and documentation, after sales service, and getting paid. Includes 10 appendices and an index. 148pp. Stock #16-69. \$8.50 + tax.

Minnesota: State Statistical and Economic Abstract. This helpful fact book by the U.S. Dept. of Commerce catalogs statistical data on population and households, labor market and human resources, economic overview, construction, manufacturing, international trade, personal income, government, high technology, state rankings in the U.S., telecommunication, information resources, travel and tourism, climate overview and geodetic service. 119pp. Stock #16-8. \$12.00 + tax.

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.

Professional, Technical & Consulting Contracts

Department of Administration

Materials Management Division

Notice of Solicitation of Applications from Eligible Small Businesses for Participation in the Small Business Procurement Program for Economically Disadvantaged Businesses

The Department of Administration is soliciting applications from eligible small businesses for participation in the newly created Small Business Procurement Program for Economically Disadvantaged Businesses. Small businesses certified as eligible to participate in this program will receive a five percent preference in the amount bid on all state purchases including construction.

Professional, Technical & Consulting Contracts

To qualify, businesses must have 20 or fewer full time employees or gross under \$1 million annually; and must be either located in an economically disadvantaged county in Minnesota (does not include Twin Cities Metro Area) or be a new small business anywhere in Minnesota that is within its first five years of operation.

Businesses must be certified by the Department of Administration, and may be eligible for similar programs at the Minnesota Department of Transportation, the University of Minnesota, and several Metropolitan Agencies, including the Metropolitan Transit Commission, Metropolitan Council, and Metropolitan Airports Commission as well as other metropolitan agencies.

For application forms or more information on this program, contact the Materials Management Division Help Line at (612) 296-2600 or write to the Help Line at 112 Administration Building, St. Paul, MN 55155.

Department of Commerce

Notice of Request for Proposals for Services to be Provided to the Minnesota Workers' Compensation Assigned Risk Plan on Behalf of the Minnesota Department of Commerce by Organizations Qualified to Perform an Audit of Reserves

The Department of Commerce intends to contract with one or more organizations to provide the services according to the specifications issued. The contract period will begin on July 24, 1989 and continue through August 31, 1989.

Interested parties should call (612) 297-1119 to obtain the formal Request for Proposals (RFP).

Any questions relating to the RFP, or the services to be provided, should be directed to:

Mr. Hollice Allen, Jr.
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-2449

Proposals must be submitted by 4:30 p.m., July 18, 1989.

Department of Corrections

Request for Proposals for Development of a Women Offender Curriculum

The Minnesota Department of Corrections, Office of Planning for Women Offenders is requesting proposals for the development of a curriculum to be used with women offenders in the community, addressing their special needs. Up to \$10,000 will be made available for the development of this curriculum. A separate implementation RFP will be issued upon receipt of the product. Specific details on the purpose and scope of the curriculum may be obtained by calling Mary Scully Whitaker, Director, Planning for Women Offenders, at (612) 642-0212.

Proposals must be submitted by 4:30 p.m. on July 31, 1989 to

Mary Scully Whitaker
300 Bigelow Building
450 North Syndicate Street
St. Paul, Minnesota 55104

State Designer Selection Board

Request for Proposal for Three Projects

To Registered Professional in Minnesota:

The State Designer Selection Board has been requested to select designer for three projects. Design firms who wish to be considered for this project should submit proposals on or before 4:00 p.m., July 11, 1989, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

Professional, Technical & Consulting Contracts

The proposal must conform to the following:

- 1) Six copies of the proposal will be required.
- 2) All data must be on 8½" x 11" sheets, soft bound.
- 3) The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 8 below, together with the designer's firm name, address, telephone number and the name of the contact person.

4) *Mandatory Proposal contents in sequence:*

a) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc. If the response is from a joint venture, this information must be provided for firms comprising the joint venture.

b) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If desired, identify roles that such persons played in projects which are relevant to the project at hand.

c) A commitment to enter the work promptly, if selected, by engaging the consultants, and assigning the persons named 4b above along with adequate staff to meet the requirements of work.

d) A list of State and University of Minnesota current and past commissions under contract or awarded to the prime firm(s) submitting this proposal during the three (3) years immediately preceding the date of this request for proposal. The prime firm(s) shall *list and total* all fees associated with these projects whether or not the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid directly to engineers or other specialty consultants employed on the projects listed pursuant to the above.

e) A section containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described. It must be noted if the personnel named were, at the time of the work, employed by other than their present firms.

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

5) *Statutory Proposal Requirements:*

In accordance with the provisions of *Minnesota Statutes*, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000.00, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted.

The proposal will not be accepted unless it includes one of the following:

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

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

d) A statement certifying that the firm has an application pending for a certificate of compliance.

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

a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded; or

b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

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

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

7a) **PROJECT—20-89**

Shooting Sports Training Facility
Giants Ridge Recreation Area
Biwabik, Minnesota

Professional, Technical & Consulting Contracts

Description of Project:

The proposed project consists of the planning and design of an Olympic style shooting sports facility.

Project Details:

The proposed project calls for the establishment of shooting ranges, both indoor and outdoor, that would include rifle, pistol, air gun, running target, trap, skeet, and archery.

Cost Estimate:

\$3,000,000.00 to \$5,000,000.00 (Complete construction).

Site Location:

Giants Ridge Recreation Area, Biwabik, Minnesota 55708.

Work to be Performed by the Consultant:

The actual work to be performed by the Consultant on this project will be to work with Giants Ridge staff in the complete planning, preparation, and design of required drawings for anticipated construction of the proposed shooting sports facility. Complete cost and construction estimates should also be provided by the Consultant.

Questions concerning this project may be referred to Mike Gentile at (218) 865-4143.

7b) PROJECT—21-89

Ferguson Hall Music Performance
Laboratory Addition
University of Minnesota
Minneapolis, Minnesota

The University of Minnesota is planning to construct a Music Performance Laboratory as an addition to Ferguson Hall which is located on the West Bank of the Minneapolis campus. The addition to the present music department facility will consist primarily of a 1,250 seat performance hall and support space for large ensembles, symphony, opera, wind ensembles, and band performances. It will also be used for chamber music, solo recitals and speech. The facility is to consist of approximately 52,400 gsf of new construction and 1,800 gsf of remodeling. Programmed areas of major activities are:

Auditorium/Balcony/Orchestra Pit/Stage	16,800 asf
Lobby	6,200 asf
Support Spaces	8,900 asf
Offices	1,000 asf
Two Rehearsal Rooms	3,600 asf

The facility has an estimated project cost of \$10,190,000.00, of which approximately \$7,450,000.00 is for construction. Funds amounting to \$1,638,000.00 have been appropriated for planning subject to the raising of matching funds.

The services of an experienced acoustical engineering specialist, with knowledge of the special challenges posed by a university music facility, is required.

It is critical that the addition fit with campus context and be a positive contribution to, and enhancement, of the campus environment.

Questions concerning this project may be referred to Clint Hewitt at 625-7355.

7c) PROJECT—22-89

Conversion of Portions of Faribault
Regional Treatment Center to a
Medium Security Correctional Facility
Total Project Budget: \$9,676,000.00

General Description of Project The 1989 Legislature authorized conversion of portions of the regional treatment center at Faribault for use as a medium security correctional facility for adult males. This proposed project consists of three components:

- 1) Perimeter Security Fence System
- 2) Industry/Gym/School Building
- 3) Remodel six (6) Buildings

Professional, Technical & Consulting Contracts

Project Details:

1. **Perimeter Security Fence System** The perimeter security fence system shall consist of a medium security double fence equipped with razor ribbon barriers, a sensor system, lighting, surveillance cameras, and required truck and pedestrian gates including access roadways and supporting parking lots. The perimeter totals approximately one (1) mile, however due to the phased occupancy of the existing buildings January 1990 thru December 1992 the perimeter fence will be constructed in phases.

2. **Industry/Gym/School Building** The proposed building shall be one story construction totaling 100,000 sq. ft. The building shall be essentially open space for use as general industry space (65,000 sq. ft.), and gymnasium/school space (35,000 sq. ft.) with the required ancillary toilet, locker, mechanical and loading dock spaces. The intent is to provide open flexible space that will ultimately be used as industry space when additional facilities become available for gym and school use.

3. **Remodel six (6) Buildings** This project provides for remodeling of six (6) buildings (Linden, Cedar, Maple, Spruce, Pine and old Hospital) for use as minimum/medium security living facilities with supporting administrative and recreational spaces. Construction will be phased as the buildings become available to the Department of Corrections. Phase 1 will include Linden, Cedar and Maple cottages, (available in December 1989), Phase 2 will include Spruce cottage, (available in December 1990), Phase 3 will include Pine cottage (available July 1991), and Phase 4 includes the Hospital Building (available December 1992). Each cottage building will be remodeled to house 100 adult inmates.

Work to be Performed by Architect/Engineer:

The work includes complete architectural and engineering design including construction observation. The architectural/engineering firm will be required to have a separate design team working on the three (3) projects concurrently. The design team for the security fence system should have civil engineer expertise to handle site work portions of the project and electrical engineer expertise to handle the electronic surveillance part of the project.

The design team for the remodeling of the six (6) existing buildings will be required to make an evaluation of these buildings and develop a space program to house approximately 100 inmates per cottage as part of their design services.

Architects Fee for the Work:

The proposed Architect/Engineer fee is 5.5%

Architect/Engineers Qualification:

It is required that the A/E firm have prior experience in the area of medium security correctional facilities.

Bernard Jacob, Chairman
State Designer Selection Board

Minnesota Historical Society

Notice of Availability of Contract Design, Copy Editing, Managing Printing Production

The Minnesota Historical Society is seeking individuals and firms with experience in copy and design editing to submit proposals for design, copy editing, and managing the printing production of a furniture inventory report.

These services, which will be provided under contract, are outlined in detail in the Request for Proposals (RFP). The formal RFP may be requested and inquiries directed to: Mark Schwartz, Contract Officer, 1500 Mississippi St., St. Paul, MN 55101, (612) 296-2155. The deadline for submitting completed proposals is the end of the business day (5:00 p.m.) June 26, 1989. Late proposals will not be accepted.

Department of Human Services

Long Term Care Management Division

Notice of Availability of Psychiatric Nursing Consultation Contract

The Department of Human Services (DHS) intends to issue a psychiatric nursing consultant contract for the purpose of providing an audit of resident records to determine whether nursing facilities are institutions for mental diseases (IMDs), a review of the appropriateness of placement of general assistance or supplemental aid clients in IMDs, and recommendations on the role of IMDs in the mental health service delivery system.

The nurse(s) must be currently licensed as a registered nurse, and must have had at least 10 years experience in providing psychiatric nursing services.

Professional, Technical & Consulting Contracts

The contract will be awarded to candidate(s) based on experience, education, achievements, professional standing, and the Department's need for specialized services. DHS shall make the final selection of the consultant and issue a contract of \$10,000 for the period of July 1, 1989 through September 30, 1989 with an option for one or two renewals of up to six months total to December 31, 1989.

Interested parties should submit resumes or direct inquiries by June 26, 1989 to:

Pamela Parker, Director
Long Term Care Management Division
Department of Human Services
444 Lafayette Road
Saint Paul, MN 55155-3844
(612) 297-3209

Department of Jobs and Training

Division of Rehabilitation Services

Notice of Proposed Contracts for the Federal Fiscal Year 1990

The Minnesota Department of Jobs and Training, Division of Rehabilitation Services is publishing notice that the contracts listed below are available and will be awarded for federal fiscal year 1990 (October 1, 1989 to September 30, 1990):

A. Notice of Proposed Contracts for Medical, Psychiatric, and Psychological Services

1. The Division of Rehabilitation Services, Office of Vocational Rehabilitation is seeking to employ individuals under contract who will meet with local staff of the section in order to provide them with advice, consultation, and training on medical and psychiatric or psychological aspects affecting the rehabilitation process for specific clients and for the agency, in general. This section will be seeking at least one medical and one psychiatric or psychological contractor in each of the following locations: Bemidji, Brainerd, Duluth, Fergus Falls, Mankato, Minneapolis, Rochester, St. Cloud, St. Paul, Virginia, Willmar, Worthington, Moose Lake and Anoka. All individuals will be paid at a rate of \$40 to \$60 per hour. Most contract work will require an average of 2 to 4 hours per week. Total cost is not expected to exceed \$100,000.00. Inquiries should be directed to:

James R. House
Director, Office of Rehabilitation Services
MN Department of Jobs and Training
Division of Rehabilitation Services
5th Floor
390 North Robert Street
St. Paul, Minnesota 55101

All proposals must be received by 4:30 p.m. 8-3-89.

2. The Division of Rehabilitation Services, Social Security Disability Determination Services Section, is seeking to employ individuals under contract who will advise and consult with disability examiner staff and others regarding the medical and psychological aspects of impairments including the nature and severity of disease processes, appropriate medical development and case documentation for individual claims, proper application of SSA medical policy and assessment of the claimant's residual level of functioning. The contractor will also be required to certify the claimant's determination of disability as required by the Social Security Administration. The section will be seeking up to fifteen Minnesota licensed medical doctors and up to ten Minnesota licensed consulting psychologists. All services will be utilized in St. Paul. Range of pay is \$42 to \$48 per hours. Contracts will vary from 8 to 35 hours per week and will be for 1 year (10/1/89 through 9/30/90) or 1 year with an option to renew for a 2nd year. Total cost is not expected to exceed \$1,000,000. Inquiries should be directed to:

William T. Ruhl
Assistant Director, Medical Services
Disability Determination Services Section
MN Department of Jobs and Training
Rehabilitation Services
Suite 300—Metro Square Building
Seventh and Robert Streets
St. Paul, Minnesota 55101
(612) 296-4419; (612) 297-4578

All proposals must be received by 4:30 p.m. 8-3-89.

Professional, Technical & Consulting Contracts

B. Notice of Proposed Contract for Psychometric Testing Services

The Rehabilitation Services Division, Office of Vocational Rehabilitation is seeking a contractor who would provide psychometric testing to about 4,500 disabled clients. The testing would be provided by the contractor in approximately 50 testing locations throughout the State of Minnesota. The contractor would be required to administer any of eight psychometric tests and provide test scores, together with an interpretation of the tests results, within two weeks of the testing date. Total cost is not expected to exceed \$165,000.00. Inquiries should be directed to:

James R. House
Director, Office of Rehabilitation Services
MN Department of Jobs and Training
Division of Rehabilitation Services
5th Floor
390 North Robert Street
St. Paul, Minnesota 55101

All proposals must be received by 4:30 p.m. 8-3-89.

C. Notice for Request for Qualifications and Request for Proposal for Mobile/Onsite Medical Examination Services

The Division of Rehabilitation Services, Social Security Disability Determination Services Section, is seeking the services of Minnesota licensed physicians and psychologists to provide specialized consultative exams (e.g., orthopedics, neurology, psychiatry, and psychological) and to travel to various Minnesota cities (e.g. Bemidji, Duluth, Mankato, Marshall, Moorhead, Rochester, St. Cloud, Willmar, and Winona) to perform consultative examinations and requested lab or x-ray studies and to provide written results of these examinations.

The division's fee schedule will be used as a guide to determine compensation. Fees may not exceed the division's fee maximums. Multiple contracts will be written. Expenditure for these contracts is not expected to exceed \$300,000.00. Reimbursement for mileage according to state regulations is provided. The contract period is 10/1/89 through 9/30/90. Inquiries and requests for a copy of the RFQ and RFP should be directed to:

William T. Ruhl
Assistant Director, Medical Services
Disability Determination Services Section
MN Department of Jobs and Training
Rehabilitation Services
Suite 300—Metro Square Building
Seventh and Robert Streets
St. Paul, Minnesota 55101
(612) 296-4419; (612) 297-4578

All proposals must be received by 4:30 p.m. 8-3-89.

Department of Trade and Economic Development

Advisory Task Force on Degradable Plastics

Request for Proposal to Conduct a Statewide Public Opinion Poll

The Advisory Task Force on Degradable Plastics is requesting proposals to conduct a statewide public opinion poll regarding degradable plastics and the management of plastic solid wastes.

Notice of Project

The Advisory Task Force has been directed to develop a report to the Minnesota Legislature regarding the feasibility and consequences of requiring the wide use of degradable plastic products by business and consumers. This report must be transmitted to the Legislature by December 1989.

As part of its overall effort, the Task Force wants to determine the level of concern and knowledge that Minnesota residents have relative to plastics, degradable plastics, recycling, solid waste and incineration. The results of this poll will assist the Task Force in determining the scope of the recommendations made.

The Task Force is particularly interested in the level of the public's interest in solid waste issues, their understanding of current degradable technologies, the relationship these plastics might have to other solid waste management activities, and their willingness to incur additional costs.

Professional, Technical & Consulting Contracts

Project Tasks

This project would include the following activities: The Task Force and staff anticipates working closely with the consultant during the course of this project.

1. Meeting with the Task Force to discuss and refine the purposes of the questionnaires and other protocols to be used by the consultant.
2. Develop a draft questionnaire form and reviewing it with staff.
3. Pretest questions and refine instrument based on input.
4. Train polling staff in regard to the issues related to the questionnaire.
5. Data collection through a telephone survey of 10-15 minutes in length using a sample size of at least 400 persons.
6. Development and presentation of reports concerning the polls results.

Proposal Content

1. A description of the survey methodology.
2. A description of the consultants background and experience in similar activities.
3. A project budget and anticipated timeframe for completion of the project.
4. A Description of the data analysis which will be undertaken, including comparisons of the opinions of Metropolitan Twin City and Greater MN residents.

Submission of Proposals

All proposals should be submitted by 4:30 p.m., June 30, 1989 to Bart Bevins, Rural Development Board, Department of Trade and Economic Development, 900 American Center Building, 150 East Kellogg, St. Paul, MN 55101-1421. Any questions regarding this project should be directed to Mr. Bevins at 612/297-1170.

Completion Date

This project should be completed by August 30, 1989. This request for proposal does not obligate the State to complete the project and the State reserves the right to cancel this solicitation if necessary.

Evaluation

Proposals will be reviewed for:

1. Consistency of the proposal with the goals of the Task Force.
2. Presence of sufficient budget detail to review and understand proposed expenditure.
3. Qualifications of personnel and company.
4. Survey methodology.

All proposals received will be reviewed by staff and the Task Force. The Task Force will regularly meet with the consultant to discuss project goals and activities.

David J. Speer, Commissioner

Non-State Public Contracts

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

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

Metropolitan Council

Notice of Public Meetings of the Metropolitan Council's Metropolitan Agencies Appointments Committee

The Metropolitan Council's Metropolitan Agencies Appointments Committee will be conducting four public meetings to hear statements from candidates and on behalf of candidates for the Regional Transit Board. Because of legislation passed this year, the newly configured RTB will consist of 11 members, eight of whom are appointed by the Metropolitan Council. At least six of the Council's appointees must be elected officials of cities, townships or counties. Two of these elected officials must be county board members from different counties, and four must be elected officials of cities or townships. The public is invited to attend and participate in making recommendations on these appointments. Following the meetings, the committee will submit its recommendations to the Council and the Council will appoint the board members. More information on the appointments process and the meetings may be obtained from Sandi Lindstrom of the Council staff at 291-6390. All of the meetings will begin at 7 p.m., dates and locations are as follows:

- | | | |
|-------------------|---------|---|
| Districts G and H | July 19 | Burnsville Council Chambers
100 Civic Center Pkwy.
Burnsville, MN |
| Districts E and F | July 20 | Champlin Council Chambers
Main City Hall Building
11955 Champlin Dr.
Champlin, MN |
| Districts C and D | July 25 | Hennepin County Government Center
Auditorium—A Level
300 So. 6th St.
Minneapolis, MN |
| Districts A and B | July 27 | Metropolitan Council Chambers
Mears Park Centre
230 E. Fifth St.
St. Paul, MN |

Supreme Court Decisions

Decisions Filed 16 June 1989

C5-87-1524 State of Minnesota, Appellant v. JoAnn Hennem. Court of Appeals.

1. Expert testimony on battered woman syndrome is admissible to assist a defense of self-defense since knowledge of the syndrome is beyond the understanding of the average juror and the syndrome itself has gained substantial enough scientific acceptance to warrant admissibility.
2. The scope of expert testimony on battered woman syndrome is limited to a description of the general syndrome and the characteristics which are present in an individual suffering from the syndrome. Expert testimony expressing an opinion or conclusion as to the ultimate fact that a particular defendant actually suffers from battered woman syndrome will not be allowed.
3. In the absence of a rule enactment, a trial court lacks the authority to compel a defendant to submit to an adverse medical examination.

4. Defendant's constitutional right to remain silent was not violated since she waived such a right by her prior testimony and the testimony of the defense expert.

5. Defendant's sentence is reduced to 54 months as recommended by the presentence investigation report since mitigating factors exist under Minnesota Sentencing Guidelines II.D.2.a.(4).

Affirmed in part, reversed in part; sentence modified. Popovich C.J.

C1-88-641 Don Levin, petitioner, Appellant v. C.O.M.B. Co. Court of Appeals.

1. A cause of action for the nonpayment of commissions based on annual sales accrues on the breach of the contractual obligation to pay.

2. Nonpayment of wages is "willful" within the meaning of *Minnesota Statutes* § 541.07 (5) (1988) and invokes the three-year period of limitation if the employer intentionally and deliberately breaches an obligation to pay agreed upon wages.

3. Whether a contract has been rescinded by mutual consent is, as a general rule, a question of fact.

Reversed and remanded. Coyne, J.

Order

C3-87-1439 In Re the Petition for Reinstatement to the Practice of Law of James J. Boyd, Petitioner. Supreme Court.

Reinstated. Kelley, J.

Announcements

Environmental Quality Board (EQB): Comments on the following Environmental Assessment Worksheets (EAWs) are due July 12 at the regional governing unit listed with the project: **Knife Lake Restoration Project**, Minn. DNR (218) 828-2624; **Grey Cloud Marina**, Gre Cloud Township (612) 459-3250; **St. Croix Valley Air Show**, EQB (612) 296-2376; **Harriet Island Marina & Park Development**, St. Paul Dept. of Community Service, Div. of Parks & Recreation (612) 292-7400; and **KVBM TV Communication Tower**, City of St. Paul Planning & Economic Development (612) 228-3393. • A petition was received for environmental review of the **Mid River Estates** by Pine County (612) 629-6781 ext 122. • There will be a public hearing on National Steel Development Company's application to **build a bridge to an island on Pokegama Lake** beginning at 1:00 p.m. on June 28 in the lower level of the Grand Rapids Township Hall, 216 North First Avenue, Grand Rapids, Minn. • The hearing in the matter of the **drainage of wetland 87-137 in Yellow Medicine County** by Merlyn Wallen and Wallace Hoffman, which was previously scheduled for June 6, 1989, had been rescheduled to take place on Tuesday, January 16, 1990 at the Yellow Medicine Watershed District Office in Minnesota, Lyon County. The purpose of the continuance is to allow Mr. Wallace and Mr. Hoffman more time to provide replacement wetlands for the one drained. For more information on any of the above, call Gregg Downing, editor *EQB Monitor*, (612) 296-8253.

Taxpayer Services Given National Award: The Minnesota Dept. of Revenue received the first-ever national award for outstanding taxpayer services at a tax conference in Portland, Oregon. The Leon Rothenberg Public Service Award, sponsored by the Federation of Tax Administrators, was presented to Minnesota for its excellence in creative and innovative programs in taxpayer service. The Revenue Dept.'s program was cited for its "customer orientation;" combined federal and state tax information and education efforts; clear, readable and attractive state tax forms and instructions; high-quality telephone tax help service; and innovative publications.

State Parks Begin Recycling: This summer, Minnesota state parks will implement a new recycling program for aluminum cans. Over 7.1 million people visited state parks last year and millions of them undoubtedly threw away aluminum cans in dumpsters and trash barrels. In response to growing concerns over environmental issues surrounding trash disposal, the Minnesota State Legislature passed a bill requiring state parks to provide where practical, recycling receptacles. The recycling bins will be clearly marked and notices will be posted as to where the containers are located in the park. Money collected by state parks from recycling will be deposited in the state treasury and credited to the state parks maintenance and operations account, which goes to provide public services and protect the resources of parks. Information on recycling will be available to park visitors, and the Interpretive Services Program will be developing and presenting environmental education programs on recycling. For more information, contact: Carmelita McGurk (612) 297-1157.

Announcements

Metro Council Seeks Applications: Candidates are sought to fill two vacancies on the Metro Council's Developmental Disabilities Advisory Committee, one for a consumer parent and the other for a general public representative. The terms expire Oct. 1, 1990 and Oct 1, 1991, respectively. Candidates must come from the Twin Cities metro area and apply by July 7. Call Kay Zwernik at 291-6364 or Edith Watson at 291-6427 for more information and an application form. Appointments will be made on July 13. • The council also seeks candidates for the newly restructured Regional Transit Board. Eleven new members are sought, eight appointed by the council and three (including the full-time chair) by the governor. Of the eight council appointees, at least six must be local elected officials: two must be county board members from different counties and four must be city or township officials. For further information or an application, call Sandi Lindstrom of the council staff at 291-6390 or the Secretary of State's office at 296-2805. Applications are preferred by July 14.

New State Park Coming Soon: The highest waterfalls in Minnesota will now become part of the 65th Minnesota state park. Grand Portage State Park was approved by the legislature in May. In the coming year, acquisition will need to be completed by the Department of Natural Resources (DNR) and lease arrangements finalized. The park should be open to the public by 1990. The park includes 278 acres of land along the Pigeon River in Cook County. The river forms the boundary between the United States and Canada. From the last navigable waters at Fort Charles, the Pigeon River tumbles wildly through a series of rapids and waterfalls 20 miles down to Lake Superior. There it enters the beautiful Pigeon Bay, rimmed by the rugged hills of Pigeon Point. One mile upstream from the Highway 61 bridge is Pigeon Falls (High Falls), the highest in Minnesota (130 feet). The beautiful Middle Falls is behind High Falls and is a 30-foot horseshoe-shaped falls. These falls are said to be the premier scenic waterfalls on Lake Superior's North Shore. The new Grand Portage State Park will be developed primarily for day use. There will be trails and overlooks of the middle and high falls, picnic areas and other basic facilities. Governor Rudy Perpich officially signed the Grand Portage State Park bill into law at a special ceremony on June 4 at St. Croix State Park, near Hinckley. During the ceremony the new St. Croix Lodge Visitor Center was dedicated.

Housing Vacancies Rise: A Metropolitan Council report, Housing Vacancy and Turnover in the Twin Cities Metropolitan Area, First Quarter, January-March shows Twin Cities area housing vacancies for the first quarter of 1989 at their highest since 1975. Rising vacancies in the multifamily sector pushed the total housing vacancy rate from 2.4 to 2.6 percent. The total vacancy rate is a composite of the single-family and multifamily vacancy rate. Multifamily units are primarily apartment buildings with four or more units. Single-family units include units in duplexes, triplexes, condominiums and townhouses and make up 68 percent of the housing covered by the report. The multifamily vacancy rate grew to 6.7 percent in the first quarter of 1989, compared with a first quarter rate of 6.3 percent in both 1988 and 1987. The single family vacancy rate remained stable at .6 percent. The single most important demographic factor impacting the number of vacancies is the large baby-boom generation moving out of the renter stage, with a smaller younger-renter generation following it, according to Council planner John McNicoll, author of the report. Compounding the demographic factor was the boom in multifamily unit construction through 1987, spurred on by federal tax incentives. A one-third drop in the number of multifamily building permits in 1988 suggests the supply of units may eventually fall more in line with demand. For a copy of the report, write the Council's Data Center, Mears Park Center, 230 E. Fifth St., St. Paul, MN 55101. The cost of the report is \$1.50. For more information call John McNicoll at (612) 291-6490.

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