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State of Minnesota

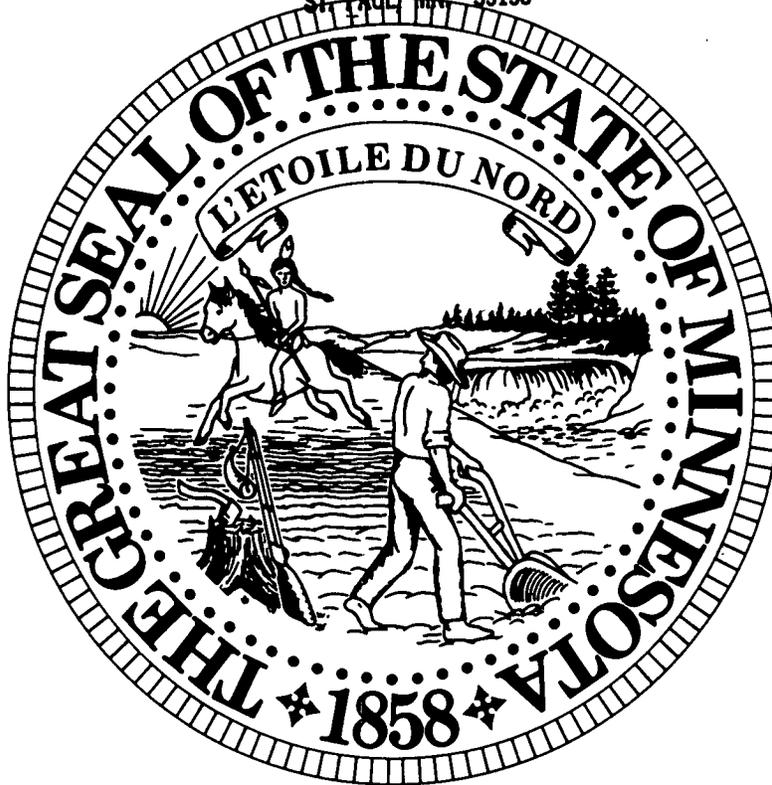
# STATE REGISTER

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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, 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 Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
9	Monday 15 August	Monday 22 August	Monday 29 August
10	Monday 22 August	Monday 29 August	Monday 5 September
11	Monday 29 August	Monday 5 September	Monday 12 September
12	Monday 5 September	Monday 12 September	Monday 19 September

\*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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# Contents

---

---

## **Minnesota Rules:**

### **Amendments & Additions**

Issues 1-9 inclusive ..... 430

### **Proposed Rules**

#### **Nursing Home Administrator Licensure Board**

Licensing of nursing home administrators ..... 432

#### **Environmental Quality Board**

Environmental review program ..... 440

#### **Natural Resources Department**

Management of shoreland areas ..... 462

### **Adopted Rules**

#### **Agriculture Department**

Pesticide chemigation safety ..... 494

#### **Commerce Department**

Petroleum tank release compensation board ..... 496

#### **Minnesota Municipal Board**

Filing fees ..... 496

### **Emergency Rules**

#### **Telecommunication Access for Communication-Impaired Persons Board**

Proposed emergency rules for eligibility for services under the telecommunication access for communication-impaired persons act ..... 497

### **Official Notices**

#### **Minnesota Historical Society**

Regular meeting of state review board ..... 501

#### **Human Services Department**

Notice of Hospital Cost Index ..... 501

Opinion sought on rules for medical assistance health services ..... 501

#### **Jobs & Training Department**

State job training office forum ..... 502

#### **Natural Resources Department**

Sale of state metallic minerals leases ..... 503

#### **Pollution Control Agency**

Opinion sought on rules for the management of hazardous waste ..... 504

#### **Teachers' Retirement Association**

Regular meeting of board of trustees ..... 504

#### **Minnesota Amateur Sports Commission**

Announcement of capital bonding application process ... 504

### **State Contracts & Advertised Bids**

#### **Administration Department**

Materials Management Division: Contracts ..... 505

Awards ..... 506

Printing & Mailing Services Division: Contracts ..... 508

Awards ..... 509

Information Policy Office request for loaned technical resources ..... 510

#### **Human Services Department**

Request for proposals for services to refugees under the key state initiative (KSI) ..... 511

Request for proposals for medical services ..... 511

#### **Jobs & Training Department**

Request for proposals for operation of job training programs for older individuals ..... 511

#### **Office of Tourism**

Request for proposals for winter tourism marketing and development study ..... 512

### **State Grants**

#### **Bureau of Mediation Services**

Applications accepted for funding under the Minnesota area labor-management committee program ..... 512

### **Supreme Court Decision**

Decisions and Orders filed Friday 26 August 1988 ..... 513

**Announcements** ..... 514

# Minnesota Rules: Amendments and Additions

## 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 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."

### Agriculture Department

1505.2000-.2070 (adopted) .....	494
1525.1110; .1410; .1470; .1510; .2020; .2320; .2330; .2390; .2430; .2520; 1530.0740; .0750; .0810 (proposed) .....	165
1525.0510; .0520; .0550; .1470 s.3; .2030; .2040; .2050; .2060; .2070; .2090; .2100; .2110; .2120; .2130; .2140; .2150; .2160; .2170; .1280; .2190; .2200; .2210; .2220; .2230; .2240; .2250; .2260; .2270; .2280; .2290 (proposed repealer) .....	165
1547.0001-.0112 (adopted) .....	38

### Animal Health Board

1700.2700; 1715.0760 (adopted) .....	173
--------------------------------------	-----

### Commerce Department

2790.0200 (proposed repealer) .....	335
2790.1750-.1751; .2200 (proposed) .....	335
2875.0115; .0116; .3500; .3531-.3533 (proposed) .....	119
2875.3500 s.4 (proposed repealer) .....	119
2890.0010; .0060; .0130 (adopted) .....	496

### Education Department

3500.0710 (proposed) .....	77
3500.0700 (proposed repealer) .....	77
3515.8400-.8800; .9000 (proposed repealer overlay period) ..	254
3520.0200; .0300; .0400; .1000; .1200; .1800; .2400; .3000; .3680; .3700; .3701; .3801; .3802; .3900; .4001; .4100; .4201; .4301; .4400; .4500; .4510; .4531; .4540; .4550; .4560; .4570; .4600; .4610; .4620; .4630; .4640; .4650; .4670; .4680; .4701; .4711; .4720; .4731; .4741 .4750; .4761; .4801; .4811; .4831; .4840; .4850; .4900; .4910; .4930; .4980; .5000; .5010; .5111; .5120; .5141; .5151; .5160; .5171; .5180; .5190; .5200; .5220; .5230; .5300; .5310; .5330; .5340; .5361; .5370; .5380; .5401; .5450; .5461; .5471; .5481; .5490; .5510; .5520; .5531; .5551; .5560; .5570; .5580; .5600; .5611; .5700; .5710; .5900; .5910; .5920 (proposed) .....	5
3520.0500; .0700; .0800; .0900; .1100; .1700; .1900; .2000; .2100; .2200; .2300; .3700 s.2,3; .3800; .4000; .4100 s.4; .4200; .4210; .4220; .4230; .4240; .4250; .4260; .4300; .4510 s.1,2; .4520; .4530; .4580; .4600 s.2,3,4,5; .4610 s.3,4; .4660; .4690; .4700; .4710;	

.4730; .4740; .4760; .4770; .4800; .4810; .4820; .4830; .4850 s.2,4; .4860; .4870; .4900 s.1,2,3,4,5,8,9,10; .4920; .4940; .4950; .4960; .4970; .4990; .5020; .5100; .5110; .5130; .5140; .5150; .5170; .5200 s.5; .5210; .5300 s.2; .5320; .5350; .5360; .5400; .5410; .5420; .5430; .5440; .5450 s.2; .5460; .5470; .5480; .5530; .5540; .5550; .5580 s.3; .5610; .5800 (proposed repealer) ...	5
---	---

### Vocational Technical Education

3700.0900-.0903 (proposed) .....	254
----------------------------------	-----

### Rural Development Board

4370.0010-.0080 (adopted) .....	130
---------------------------------	-----

### Environmental Quality Board

4410.0200; .0400; .1000; .1100; .1300; .1700; .2000; .2100; .2800; .3000; .3100; .3110; .3600; .3800; .4300; .4400; .4600; .5000; .6000; .6200; .6300; .6400 (proposed) .....	440
4410.0200 s.66, 72, 74; .1700 s.8; .3100 s.3; .6100 s.2; .6200 s.3; .6400 s.2 (proposed repealer) .....	440

### Health Department

4617.0002; .0060-.0100 (proposed) .....	383
4655.1070-.1100 (proposed emergency) .....	130
4655.1070.1100 (proposed emergency) .....	260
4670.2300 (proposed) .....	168

### Higher Education Coordinating Board

4830.0100; .0400; .0600; .0700; .1552; .1555; .1560-.1565; .2600; 4850.0011; .0014; .0016; .0017 (adopted) .....	128
4830.0600 s.1 b-1 d (repealed) .....	128

### Housing Finance Agency

4900.1530-.1533; .1550; .1560; .1570 (proposed repealer) .....	80
--	----

### Labor & Industry Department

5205.0010 (proposed) .....	122
----------------------------	-----

### Bureau of Mediation Services

5510.2410; .2905; .2915; .2930; .3005 (proposed) .....	230
5510.2810 s.6; .2910; .3010; .3110 (proposed repealer) .....	230

### Municipal Board

6000.3400 (adopted) .....	496
---------------------------	-----

# Minnesota Rules: Amendments & Additions

## Natural Resources Department

6105.0900; .0910 (adopted) .....	38
6116.0010-.0070 (proposed) .....	124
6120.2500; .2600; .2800; .3100; .3200; .3300; .3400; .3500; .3800; .3900 (proposed) .....	462
6120.0100-.2100; .2500 s.4,6,18; .2700; .2900; .3300 s.6; .3400 s.1; .3600; .3700; .3900 s.2 (proposed repealer) .....	462

## Nursing Home Administrator Licensure Board

6400.0600; .0700; .0800; .0900; .1300; .1400; .1700; .1800; .1900; .2000; .2200; .2400; .2500 (proposed) .....	432
6400.2100; .2200 s.2; .2300; .2700; .2800 (proposed repealer) .....	432

## Pollution Control Agency

7001.0560; .0580; .0650; 7045.0020; .0075; .0120; .0219; .0292; .0452; .0478; .0490; .0498; .0528; .0556; .0564; .0584; .0600; .0608; .0628; .0629 (adopted) .....	259
7045.0528 s.9 (repealed) .....	259
7045.0020; .0075; .0528; .0628 (adopted) .....	259
7075.0409; .0411; .0428; .1010; .1020; .1030; .1040; .1050; 1060; .1070; .1080; .1090; .1095 (emergency extended) .....	308
7075.1400-.1530 (proposed) .....	338
7080.0010; .0020; .0030; .0040; .0060; .0080; .0100; .0110; .0120; .0130; .0150; .0160; .0170; .0200; .0210 (proposed) ..	232
7080.0020 s.17, 22, 51; .0220; .0230; .0240 (proposed repealer) .....	232

## Public Safety Department

(see merit system rules 9575.0620) (proposed) .....	171
7406.0450 (proposed) .....	344

## Minnesota Racing Commission

7869.0100; 7870.0490; 7877.0110; .0170; .0175; 7883.0160; .7884.0170; 7890.0100; .0140;	
--	--

7891.0100; 7895.0100 (adopted) .....	38
--------------------------------------	----

## Revenue Department

8100.0200; .0300 (adopted) .....	394
----------------------------------	-----

## Secretary of State

8210.0200; .9910; 8230.4350 (adopted) .....	259
8250.0100; .0600; .1600-.1800; .9910; .9920 (adopted) .....	347

## Reinvest in Minnesota (RIM) Reserve Program

8400.3000-.3930 (proposed) .....	109
----------------------------------	-----

## Telecommunication Access for Communication-Impaired Persons Board

8775.0100-.0600 (proposed emergency) .....	497
--	-----

## Transportation Department

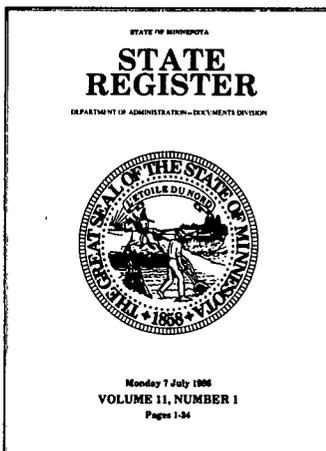
8850.6900-.9050; 8855.0300-.0850 (adopted) .....	38
7800.0100 s.2,9,10; .0300; .1200; .1300; .1900; .3500; .3700-8200; 7805.1400-.3600 (repealed) .....	38

## Human Services Department

9503.0005-.0170 (adopted) .....	173
9505.0175; .0476-.0491 (proposed) .....	215
9505.2390-.2500 (adopted) .....	258
9505.2250; .2260; .2270; .2280; .2290; .2300; .2310; .2320; .2330; .2340; .2350; .2360; .2370; .2380 (repealed) .....	258
9545.0510-.0670 (repealed) .....	173
9549.0059; .0060 (adopted) .....	130
9560.0210-.0234 (adopted) .....	303
9560.0250; .0260; .0270; .0280; .0290; .0300 (repealed) .....	303
9575.0620 (proposed) .....	170

## Workers' Compensation Court of Appeals

9800.0100; .0300; .0400; .0500; .0510; .0900 .1000; .1100; .1400; .1500; .1600; .1710; .1720; .1800 (proposed) ..	34
9800.0500 s.2; .0600; .0900 s.4; .1300 (proposed repealer) ..	34



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## Proposed Rules

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

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

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

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

## Nursing Home Administrator Licensure Board

### Proposed Permanent Rules Relating to Licensing of Nursing Home Administrators

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

NOTICE IS HEREBY GIVEN that the Minnesota Board of Examiners for Nursing Home Administrators (hereinafter "Board") intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1986). The statutory authority to adopt the rule amendments is *Minnesota Statutes* §§ 144A.21, 144A.24, 214.06 and 626.557, subd. 16(b)(1986).

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

Any person may make a written request for a public hearing on the rule amendments within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986).

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

Phillip C. Newberg	Suite 104
Executive Director	2700 University Avenue West
Minnesota Board of Examiners	St. Paul, Minnesota 55114
for Nursing Home Administrators	Telephone: (612) 642-0596

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

The rule amendments proposed for adoption relate to the following matters: licensure requirements, fees, clarification of present rules and to bring present rules into conformity with state statutes. A copy of the proposed rule amendments is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule amendments and identifies the data and information relied upon to support the proposed rule amendments has been prepared and is available from Phillip C. Newberg, at the above address, upon request.

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

Dated: 16 August 1988

Phillip C. Newberg  
Executive Director

**Rules as Proposed****6400.0600 LICENSE REQUIREMENTS.**

No initial license shall be issued to a person as a nursing home administrator unless the individual:

- A. Is at least 18 years of age;
- B. Is of sound ~~physical and~~ mental health; For the purposes of this part, mental health means an individual's emotional or intellectual ability to adapt to a changing environment.
- C. Is of good moral character and otherwise suitable; For the purposes of this part, moral character means the individual's ability to distinguish between right and wrong and act accordingly.
- D. Has furnished satisfactory evidence, as required by the board, that ~~he/she~~ the individual possesses the general administrative abilities needed to satisfactorily administer a nursing home and possesses the ability to relate the administration of a nursing home to the physical, psychological, spiritual, emotional, and social needs of patients and to create a compassionate and helpful environment;
- E. Has paid the following licensure and examination fees as established by the board:
  - (1) an original application fee, not to exceed ~~\$75~~ \$100;
  - (2) a state examination fee, not to exceed ~~\$50~~ \$75; and
  - (3) a national examination fee, not to exceed ~~\$80~~ \$125.

Board adjustments to fees within the ranges noted in the rules will be subject to review and approval by the commissioner of finance each time the fees are adjusted. Information about the exact fees is available from the board office.

F. Has achieved a passing score, ~~to be reasonably established by the board~~ of at least 75 percent, on all required examinations, ~~unless otherwise hereinafter provided;~~

G. Has a baccalaureate or higher degree from an accredited institution and has satisfactorily completed an approved academic course in each of the following areas:

(1) A course in the principles of ~~organizational management and administration which delineates the role, functions, and process of management including planning, staffing, organizing, controlling, delegating, and evaluating outcomes; health care management that delineates the role, function, and process of top level management.~~ This course shall include:

- (a) the management process of planning, staffing, organizing, controlling, delegating, and evaluating outcomes;
- (b) business technology and theory of application;
- (c) executive role of administrator;
- (d) the art versus the science of administration; and
- (e) board-administrator relationships, functions, and authority.

(2) ~~an accounting course which provides an introduction to basic financial concepts, financial statements, definition of accounting terminology, and the recording and reporting of financial events including budgeting; Both an introductory accounting course and an advanced managerial accounting course that includes accounting analysis and reports for managerial decisions, planning, and controlling of operations.~~

(3) ~~a course in social gerontology which includes the study of the social aspects of aging in our society as they relate to services and programs for the infirm or aged, or both; A course in gerontology identifying the aging process in terms of biological, social, and psychological aspects. This course shall include the following objectives:~~

- (a) knowledge of the physical, social, spiritual, economic, and emotional needs of long-term care residents; and
- (b) programs and services necessary to meet the needs of the elderly as a population, and those necessary for specific subpopulations.

(4) ~~a course on issues in health care in which there is a study of at least three of the major social, economic, and ethical issues confronting long-term health care which include nontraditional approaches to health care, relationships of life style to health,~~

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

## Proposed Rules

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patients' rights, right-to-die issues, and dilemmas of health care professionals in terms of morals, ethics, and professional commitments; A course providing a study of issues and trends in long-term health care. This course shall include the following topics:

- (a) history of and current trends in long-term health care;
- (b) alternative modes for delivery of long-term care services;
- (c) consumer issues such as patient rights and the right to die;
- (d) corporation relationships; and
- (e) health care policy issues such as government and society.

(5) a course in health care law which studies common case law and types of legal entities that affect or govern long-term health care organizations including its board and staff and the laws that affect guardianship or conservatorship; A course in health care law that examines case law and legislation affecting long-term health care facilities. This course shall include the following topics:

- (a) guardianship and conservatorship;
- (b) professional negligence;
- (c) duty to provide appropriate patient care;
- (d) biomedical ethics;
- (e) concern for confidentiality of information;
- (f) corporate responsibility;
- (g) patient bill of rights; and
- (h) law on the protection of residents from abuse or neglect.

(6) a course in the administration of long-term care services and programs which is a study of the function and role of professional and nonprofessional personnel, their services, and organizational programs which are needed to provide therapeutic-geriatric services for those requiring long-term health care; A course studying delivery of all services required by residents of long-term health care facilities. This course shall include the following topics:

- (a) function and role of professional and nonprofessional staff and nonemployee staff;
- (b) departmental operations and functions;
- (c) ethics;
- (d) policy development; and
- (e) programs necessary for residents' health and safety.

(7) a human resource or personnel management course which is a study of recruitment, screening and selection processes, job descriptions, job evaluations, personnel policies affecting management and human resources, including orientation and development of employees, personnel records, wage and salary administration, labor laws, affirmative action planning, and equal employment opportunity legislation; A human resource or personnel management course. This course shall include the following topics:

- (a) recruitment, screening, and selection process;
- (b) job descriptions and job evaluations;
- (c) personnel policies and development of policies;
- (d) wage and salary administration;
- (e) federal and state regulations on employment and employment opportunities;
- (f) group dynamics;
- (g) labor relations and negotiations; and
- (h) administration of disciplinary policy and procedure.

(8) A course in medical terminology, including a study of commonly accepted medical terms used in long-term care; and.

(9) a board-preapproved practicum course which relates knowledge courses to the practice of administration in long-term health care organizations. The course, which must be of a minimum of 300 clock hours, must be under the direction of a faculty person of the educational institution coordinating the course and carried out by a licensed nursing home administrator-preceptor. Upon mutual agreement of the educational facility and nursing home preceptor, a licensed nursing home may serve as

~~the practicum site for an applicant who is employed by that nursing home.~~ A course in the development and application of management information systems. This course shall include the following areas of study:

- (a) management of data bases;
- (b) computerization of patient records and care plans;
- (c) budgeting and spread sheet analysis;
- (d) survey of currently available systems;
- (e) applications such as integrated software, spreadsheet construction, data structuring, local area network design, networks and installation linkages and options;
- (f) security risks; and
- (g) data management and automated systems.

This subitem is waived for all applicants who apply for licensure before July 1, 1989. All applicants for whom this subitem is waived between the effective date of this rule and July 1, 1989, must submit evidence of satisfactory completion of the course required by that rule as a condition for relicensure in 1990 pursuant to part 6400.1700. Evidence of satisfactory completion is written verification from the academic institution offering the course. The written verification must state that the course was completed with a passing grade and must give the date of completion of the course.

(10) A course in the funding mechanisms and regulatory compliance aspects currently in force for the long-term care industry. This course shall include the following topics:

- (a) systems of payment by:
  - (i) Medicare;
  - (ii) Medicaid;
  - (iii) third party payors; and
  - (iv) private health care coverage;
- (b) utilization review;
- (c) survey and compliance;
- (d) quality assurance and review;
- (e) sanitation and food service regulations;
- (f) life safety code;
- (g) Occupational Safety and Health Administration (OSHA);
- (h) Joint Commission on Accreditation of Health Care Organizations;
- (i) peer review;
- (j) roles of professional and trade organizations; and
- (k) regulatory compliance.

(11) A board preapproved practicum course that applies knowledge from required courses to the practice of long-term health care administration. The course shall be a minimum of 400 clock hours and shall be jointly supervised by a licensed nursing home administrator and a faculty member of the approved educational institution. Upon mutual agreement of the educational facility and nursing home preceptor, a licensed nursing home may serve as the practicum site for an applicant who is employed by the nursing home. This course shall include the following topics:

- (a) the opportunity to observe the integrative and administrative role of an administrator;
- (b) the study of and involvement in each operating department of the facility;
- (c) relationships between the facility and community and other health care providers and organizations;
- (d) opportunity to participate in or review the findings and results of past regulatory inspections of a facility; and
- (e) a major project study, research paper, or similar report on a topic relevant to the operations of the nursing home.

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## Proposed Rules

H. Applicants with a degree in health care administration rather than long-term health care administration need only satisfy the practicum requirement of item G, subitem ~~(9)~~ (11), and satisfactorily complete the courses described in item G, subitems (3) and (6).

### 6400.0700 WAIVER PROVISIONS.

Subpart 1. **Waiver of degree.** The board shall waive part 6400.0600, items G and H if the applicant submits satisfactory evidence of having actively served full time as a the licensed nursing home administrator and chief executive officer of a nursing home in another state for a minimum period of two continuous years within the immediate past five licensure years and meets all other licensure requirements.

Subp. 2. **Waiver of practicum course.** The board shall waive part 6400.0600, item G, subitem ~~(9)~~ (11) if the applicant submits evidence of having completed satisfactorily one year continuous, ~~full time as an~~ full-time employment in the role of administrator or in a position as an assistant administrator in an acute care, skilled care, or nursing home intermediate care facility, or two years as a director of nursing services ~~or a director of social services~~ in a skilled or nursing home intermediate care facility.

Subp. 3. to 5. [Unchanged.]

### 6400.0800 APPLICATION.

Subpart 1. **Content; time of submission and validity.** Application for licensure shall be made on forms provided by the board and shall be accompanied by all the required supportive information and documents. Completed applications shall be received by the board no less than 45 days in advance of an examination date. Applications shall become void one year after the application form is filed with the licensure board ~~unless the applicant maintains an active file by either writing the examinations when offered or is enrolled in an approved educational course designed to meet licensure requirements and so notifies the board.~~

Subp. 2. and 3. [Unchanged.]

Subp. 5. [Unchanged.]

Subp. 6. **Fees not refunded.** Any license or examination fees A fee paid to the board cannot be refunded.

### 6400.0900 EXAMINATION.

Subpart 1. Examination content. Each examination shall consist of one or more written and/or oral tests and may include such other evaluative techniques as the board may employ. Each examination shall include, but shall not be limited to, the following subjects:

- A. applicable standards of environmental health and safety;
- B. local health and safety regulations;
- C. general administration;
- D. psychology of patient care;
- E. general principles of medical care;
- F. personal and social care; and
- G. therapeutic and supportive care and services in long-term care.

Subp. 2. Applicant examination void. Examination results are considered void one year after the date the examination is taken if the applicant has not become fully licensed.

Subp. 3. Examination void. For holders of a lapsed license, all previous examination results are considered void if the license has been lapsed for one year or longer.

### 6400.1300 ACTING ADMINISTRATOR.

If a licensed nursing home administrator is removed from his position by death or other unexpected cause, the owner, governing body, or other appropriate authority of the nursing home suffering such removal may designate an acting nursing home administrator who may serve for no more than 180 days. The owner, governing body, or other appropriate authority of the nursing home suffering such removal shall notify the licensure board in writing within 15 days of the termination of service of the administrator as well as the appointment of the new administrator. Upon receipt of notification of a vacancy, the board shall provide, if the designated new administrator is not fully licensed, the appropriate forms for securing an acting license. The board shall expediently process all qualified applicants for acting license. If an application is received after a vacancy occurs, the acting license shall be retroactive to the date the applicant assumed administrative responsibility of the facility.

An applicant for an acting nursing home administrator's license must furnish satisfactory evidence that the applicant:

- A. has graduated from high school or holds a general education development (GED) certificate of equivalent competency;

B. is at least 18 years of age;

C. is of good moral character; and

D. is suitable and fit to be licensed as an acting nursing home administrator as evidenced by:

(1) absence of any mental impairment that would be likely to interfere with the performance of the duties of a temporary nursing home administrator;

(2) the ability to understand and communicate general and technical information necessary to the temporary administration and operation of a nursing home;

(3) the ability to assume responsibilities for the temporary administration of a nursing home as evidenced by prior activities and prior service in the management of a nursing home;

(4) the ability to relate the physical, psychological, spiritual, emotional, and social needs of the patients to the temporary administration of a nursing home, and to create a climate necessary to meet the needs of the patients; and

(5) the ability to demonstrate adequate knowledge about Minnesota's state health and safety rules by passing the board's state examination based on the Department of Health Nursing and Boarding Care rules and the applicable Life Safety Code regulations with a passing score of at least 75 percent.

#### **6400.1400 RECIPROCITY.**

Subpart 1. **General requirements.** The board, subject to the law pertaining to the licensing of nursing home administrators prescribing the qualifications for nursing home administrator license, may endorse, without examination, a nursing home administrator license issued by the proper authorities of any other state or political subdivision of the United States provided:

A. that ~~such~~ the other state or subdivision of the United States, maintains a system and standard of qualification examination for nursing home administrator licensure which is substantially equivalent to those required in ~~the state~~ of Minnesota under parts 6400.0600 and 6400.0700;

B. that ~~such~~ the applicant for endorsement is familiar with Minnesota's state and local health and safety regulations related to nursing homes and has successfully passed the board's examination on state rules;

C. that the applicant for endorsement is in good standing as a nursing home administrator ~~as such~~ in each state or subdivision of the United States from which ~~he or she~~ the applicant has ever received a nursing home administrator license or reciprocal endorsement; and

D. that an applicant who seeks licensure by reciprocity shall pay a service fee, as established by the board not to exceed \$50 \$75.

Subp. 2. **Reciprocity of revocation.** The board shall have power and after due notice an opportunity to be heard at a formal hearing pursuant to the Administrative Procedure Act, *Minnesota Statutes 1969*, chapter ~~45~~ 14, to revoke or suspend the endorsement of a nursing home administrator license issued to any person on evidence satisfactory to the board that the duly constituted authorities of any state have lawfully revoked or suspended the nursing home administrator license issued to ~~such that~~ that person by ~~such~~ the state.

#### **6400.1700 RENEWAL OF LICENSE.**

Subpart 1. **Forms from board.** Every person who holds a valid license as a nursing home administrator issued by the board shall annually apply to the board on or before June 1, ~~to the board for a renewal of the license for relicensure~~ and report any information ~~deemed~~ considered pertinent and requested by the board on forms provided for that purpose.

If the application for relicensure has not been received by June 30 of each year, the license will lapse and the holder of a lapsed license will be subject to the reinstatement procedure.

A nursing home administrator need not be actively practicing as a nursing home administrator in order to renew a license.

Subp. 1a. **Reinstatement.** A nursing home administrator duly licensed in this state, whose license has not been revoked or suspended, and whose license has lapsed, may apply for reinstatement of a license upon filing with the board an affidavit stating that the license has lapsed. The board may reissue the license if the applicant satisfies all past continuing education relicensure requirements and pays all required fees. A holder of a license that has been lapsed for five years or longer shall be regarded as having forfeited all rights and privileges for reinstatement of the lapsed license.

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## Proposed Rules

Subp. 2. **Fees; time for renewal.** Upon making an application for a ~~renewal of his license~~ such relicensure the licensee shall pay the annual fee as established by the board, not to exceed ~~\$125~~ \$150. ~~Renewal~~ Relicensure applications received after July 1 shall pay the late filing fees as established by the board not to exceed ~~\$30~~ \$50 for the first six months and ~~\$50~~ \$75 for the second six months. The applicant shall submit evidence satisfactory to the board that during the annual period immediately preceding ~~such the~~ application ~~he~~ the applicant has complied with the rules of this board and continues to meet the requirements as established, including, but not limited to, continuing educational requirements for relicensure. Nonacademic continuing education requirements ~~of~~ for relicensure shall be completed by May 1 of each year for the ensuing licensure year; however, upon presentation of a written petition, licensees may be granted an extension for an appropriate period of time. Extensions will only be granted in unusual circumstances. Applicants granted extensions ~~will be~~ are required to make payment of applicable late filing fees.

Subp. 3. Waiting period. An applicant whose nursing home administrator license has been revoked is not eligible for licensure again for at least six months.

### 6400.1800 CONTINUING EDUCATION REQUIREMENTS.

Licensees, in order to be eligible for consideration for renewal of their license, shall be required to satisfy the following continuing educational requirements:

A. annual attendance at licensure board-approved seminars, institutes, or workshops totaling at least 20 clock hours; and

B. satisfactory completion during each three-year license renewal period of ~~at least six quarter-credit hours or four semester hours in health care courses related to long-term health care administration from an educational institution accredited by the appropriate regional accrediting agency or attendance during the same time period at~~ an additional 30 clock hours of board-approved seminars, institutes, or workshops.

### 6400.1900 SPONSORS FOR CONTINUING EDUCATION.

Subpart 1. [Unchanged.]

Subp. 1a. In-house educational courses. An in-house educational course is one sponsored by a single health care facility or corporation or a single federal, state, or local government agency for licensed nursing home administrators who are members or employees of the facility, corporation, or agency. An approved in-house course must meet the following requirements:

A. It must comply with subpart 1 and other applicable board rules.

B. At least 25 percent of the hours of approved instruction must be taught by instructors not employed with the sponsoring facility, corporation, or agency.

C. It must be made available to enough outside licensed nursing home administrators so that the audience may be composed of at least 25 percent participants who are not administrators working in or for the facility, corporation, or agency.

D. Information concerning the course must be adequately communicated to outside administrators so they will have reasonable opportunity to attend.

Subp. 2. [Unchanged.]

### 6400.2000 DETERMINATION OF CREDIT HOURS FOR CONTINUING EDUCATION.

Seminars, institutes, or workshops shall be evaluated for clock hour credits on the following dual-level basis:

A. Seminars, institutes, or workshops shall receive full clock hour credit upon meeting the following criteria:

(1) subject matter specifically related to the primary administrator functions and responsibilities of long-term health care;

(2) ~~subject matter~~ the seminar is designed specifically for administrators and the development of their administrative skills in long-term health care administration; and

(3) instructors have documented academic background sufficient to demonstrate competence and expertise in involved subject.

B. [Unchanged.]

### 6400.2200 REVOCATION, SUSPENSION, REFUSAL.

Subpart 1. **Criteria.** The board may suspend or revoke a license or refuse to renew a license of a nursing home administrator after due notice and an opportunity to be heard at a formal hearing, upon substantial evidence that ~~such the~~ person:

A. has violated any of the provisions of the law pertaining to the licensing of nursing home administrators or the rules of the board pertaining ~~thereto~~ to the licensing of nursing home administrators; or

B. has ~~wilfully or repeatedly~~ violated any of the provisions of the law, code, rules, or regulations of the licensing or supervising authority or agency of the state or political subdivision thereof having jurisdiction over the operation and licensing of

nursing homes been the administrator of a facility during the time when there have been four or more uncorrected violations of Minnesota Department of Health rules, for which fines are in the four highest fine categories prescribed in rule and a final determination has been made that the fines were properly assessed;

C. has practiced fraud, deceit, or misrepresentation in securing or procuring a nursing home administrator license; or

D. is found by the board to be incompetent to practice as a nursing home administrator. For purposes of this part, incompetence means that the licensee:

(1) has practiced fraud, deceit, or misrepresentation as a nursing home administrator;

(2) has committed acts of misconduct in the operation of a nursing home under the licensee's jurisdiction;

(3) has practiced without annual licensure;

(4) has wrongfully transmitted or surrendered possession of the licensee's license to any other person, either temporarily or permanently;

(5) has paid, given, has caused to be paid or given, or offered to pay or give to any person, a commission or other consideration for solicitation or procurement either directly or indirectly for nursing home patronage;

(6) has practiced fraudulent, misleading, or deceptive advertising with respect to the institution of which the licensee has charge;

(7) has falsely impersonated another licensee of a like or different name;

(8) has failed to exercise true regard for the safety, health, or life of a patient;

(9) has wilfully permitted unauthorized disclosure of information relating to a patient or the patient's record;

(10) has discriminated with respect to patients, employees, or staff on account of age, race, sex, religion, color, national origin, marital status, status with regard to public assistance, or disability;

(11) has abused or is dependent on habit-forming drugs, including alcohol, a legend drug as defined in Minnesota Statutes, chapter 151, a chemical as defined in Minnesota Statutes, chapter 151, or a controlled substance as defined in Minnesota Statutes, chapter 152, and this abuse or dependency has affected the performance of the licensee's duties. In reviewing this disciplinary matter, the board shall consider any attempts the licensee has made toward rehabilitation; or

(12) has failed to comply with Minnesota Statutes, section 626.557.

Subp. 2. [See Repealer.]

#### **6400.2400 PROGRAM APPROVAL.**

Subpart 1. **Approval of programs for licensure.** A program of study offered by an accredited educational institution must have prior approval of the board in order to be acceptable for meeting nursing home administrator licensure requirements. The board shall approve programs of study ~~which that~~ include courses in the areas described in part 6400.0600, item G, subitems (1) to (7) and (9), upon payment of a service fee as established by the board, not to exceed ~~\$40~~ \$50 per program.

Subp. 2. [Unchanged.]

#### **6400.2500 APPLICANT RESPONSIBILITY.**

The applicant shall furnish the board evidence of satisfactory completion of an approved program of study applicant is responsible for providing to the board all data, reports, or information required by the board for licensure or relicensure.

**REPEALER.** Minnesota Rules, parts 6400.2100; 6400.2200, subpart 2; 6400.2300; 6400.2700; and 6400.2800 are repealed.

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# Environmental Quality Board

## Proposed Permanent Rules Relating to Environmental Review Program

### Notice of Intent to Adopt Rule Amendments Without a Public Hearing, Notice of Intent to Adopt Rule Amendments With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing

#### I. Explanation of Alternative Notices

The Minnesota Environmental Quality Board (EQB) is hereby giving notice of its intent to adopt amendments without a public hearing to the rules governing the Environmental Review Program (also known as the Environmental Impact Statement (EIS) Program), *Minnesota Rules*, parts 4410.0200 to 4410.7800. The amendments would be adopted under the noncontroversial rulemaking procedure. However, in order to expedite the rulemaking process should 25 or more persons request a hearing, thus necessitating that a hearing be held, the EQB is simultaneously giving notice of a hearing on the proposed amendments. Unless at least 25 persons request that the hearing be held, the hearing will be cancelled.

The EQB has elected to jointly notice rulemaking both with and without a hearing in order to avoid delay should a hearing be required. The EQB has informally discussed concerns raised over various proposed amendments with the concerned parties throughout the drafting of the amendments, and consequently believes that all known concerns have been given adequate consideration. Nevertheless, the EQB recognizes that there may be sufficient concern over the amendments to necessitate the holding of a public hearing.

#### II. Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Environmental Quality Board (EQB) proposes to adopt the above-captioned rule amendments without a public hearing following the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28 (1986). The proposed rule amendments would change certain portions of the rules governing the environmental review program, which are authorized by *Minnesota Statutes*, sections 116D.04 and 116D.045. These rules prescribe the circumstances under which development projects must be reviewed through the preparation of an Environmental Impact Statement (EIS) or an Environmental Assessment Worksheet (EAW), and the procedures by which these reviews must be conducted. A free copy of the proposed amendments may be obtained by contacting Gregg Downing at the address or telephone number listed below.

The proposed amendments would revise the existing rules in approximately 70 places. Many of the revisions are merely clarifications of the existing rules and would not affect their scope or intent. Other revisions would alter the scope of the rules, for example by restricting or broadening the EAW or EIS requirements for certain types of projects, or would alter the process by which EAWs and EISs are prepared and reviewed. Major revisions included in the proposed amendments are intended to accomplish the following:

- (1) establish new mandatory EAW or EIS requirements for mixed residential and commercial projects, sports or entertainment facilities, communication towers, out-of-state water diversions, and pipelines;
- (2) revise existing mandatory EAW or EIS thresholds for residential projects, commercial-industrial projects, storage facilities, parking facilities, hazardous and solid waste facilities, sewage systems, water appropriations, and animal feedlots;
- (3) clarify how multi-stage and multi-component projects are to be treated when determining the need for review and in conducting review;
- (4) streamline the process for preparing a supplement to an EIS;
- (5) revise the EAW process by requiring a response to all substantive comments, shortening the timeframe for the EIS need decision, and providing for a time extension of the EIS need decision in the event that critical information is lacking;
- (6) establish an alternative method of reviewing residential and commercial development in cities that would focus on all anticipated development within a geographical area rather than on an individual project; and
- (7) implement recent amendments to *Minnesota Statutes*, section 116D.045 which authorize the governmental unit preparing an EIS to assess the project's proposer, whether private or public, for the reasonable costs of preparing and distributing the EIS.

Interested persons will have 30 days from the date of this notice in the *State Register* to submit comments in support of or in opposition to the proposed amendments or any part thereof. Comment is encouraged. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any proposed change.

Any person may make a written request for a public hearing on the proposed amendments within the 30-day comment period. If 25 or more persons submit written requests for a public hearing within this 30-day comment period, a public hearing will be held in accordance with the notice of hearing given in part III of this notice. Requests for a public hearing must be received by the EQB by September 28, 1988. Any person requesting a hearing should state his or her name, address, and telephone number, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any changes suggested in the proposed amendments.

If a person desires that a hearing be held on only a portion of the proposed amendments, it is requested that the EQB be informed of the specific amendments on which a hearing is being requested at the time that the hearing request is made. This will enable the EQB to limit the hearing, if one is held, to the specific portions of the amendments of concern, and to adopt portions of the amendments for which less than 25 persons request a hearing in accordance with the noncontroversial rulemaking procedures.

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

Gregg Downing  
Environmental Review Coordinator  
Environmental Quality Board  
300 Centennial Office Building  
650 Cedar Street  
St. Paul, MN 55155  
(612) 296-8253

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

A statement of need and reasonableness has been prepared and may be obtained from the EQB by contacting Mr. Downing at the address or telephone number listed above. This document describes the need for and reasonableness of each proposed amendment and identifies the information relied upon to support the proposed amendments. The statement of need and reasonableness contains a Fiscal Note required by *Minnesota Statutes*, section 14.11 (1986) concerning the potential for the amendments to require the additional expenditure of public monies by local public bodies and a statement regarding small business considerations in rulemaking, as required by *Minnesota Statutes*, section 14.115 (1986). The proposed amendments would not have a direct effect on agricultural land.

If a hearing is not required for the adoption of the proposed amendments, or portions of these amendments, the proposed rules and supporting documents will be delivered to the Attorney General for review as to form and legality. Persons who wish to be notified of this submission to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to Mr. Downing at the address listed above.

### **III. Notice of Intent to Adopt a Rule With a Public Hearing If 25 or More Persons Request a Hearing**

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITH RESPECT TO THE ABOVE-CAPTIONED RULE WITHIN THE 30-DAY COMMENT PERIOD PURSUANT TO THE NOTICE GIVEN IN PART II ABOVE, A HEARING WILL BE HELD ON OCTOBER 12, 1988 IN ACCORDANCE WITH THE FOLLOWING NOTICE OF PUBLIC HEARING.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held pursuant to *Minnesota Statutes*, sections 14.131 to 14.20 (1986), on October 12, 1988, in room 300S of the State Office Building, 100 Constitution Avenue, St. Paul, Minnesota, commencing at 9:00 a.m. Additional days may be scheduled as needed. All interested or affected persons will have an opportunity to participate, and may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence submitted should be pertinent to the matter at hand.

Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to: Allan W. Klein, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota, 55415, telephone 612/341-7609, either before or within five days after the hearing ends. The Administrative Law Judge may, at the hearing, order the record kept open for a longer period not to exceed 20 calendar days. Written material received during this period will be available for review at the Office of Administrative Hearings. After the close of the comment period, the EQB and interested persons have three business days to respond in writing to any new information submitted during the comment period. No additional evidence may be submitted during the three-day period. This rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20 (1986) and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedures may be directed to the Administrative Law Judge.

The proposed rule amendments would change certain portions of the rules governing the environmental review program. A description of the major proposed amendments is provided in part II of this notice. The rules are authorized by *Minnesota Statutes*, sections 116D.04 and 116D.045. A free copy of the proposed amendments may be obtained by writing or telephoning: Gregg

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## Proposed Rules

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Downing, Environmental Review Coordinator, EQB, 300 Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155; (612) 296-8253.

The proposed amendments may be modified as a result of the rule hearing process if the modifications do not result in a substantial change in the proposed amendments as noticed. Those who are potentially affected by the substance of the proposed amendments are therefore advised and encouraged to participate in the process.

Notice is hereby given that a statement of need and reasonableness is available for review at the EQB offices and at the Office of Administrative Hearings. This document describes the need for and reasonableness of each proposed amendment and identifies the information relied upon to support the proposed amendments. Copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

The statement of need and reasonableness contains a Fiscal Note required by *Minnesota Statutes*, section 14.11 (1986) concerning the potential for the amendments to require the additional expenditure of public monies by local public bodies and a statement regarding small business considerations in rulemaking, as required by *Minnesota Statutes*, section 14.115 (1986). The proposed amendments would not have a direct effect on agricultural land.

Please note that any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the EQB may not take any final action on the amendments for a period of five business days. If you wish to be so notified, you may do so at the hearing. After the hearing, you may request notification by writing to the Administrative Law Judge.

Any person may request notification of the date on which the amendments were adopted and filed with the Secretary of State. The notice will be mailed to any person requesting this notice on the same day that the rule is filed. If you wish to be so notified, you may so indicate at the hearing or send written request to the EQB at any time prior to the filing of the rule with the Secretary of State.

*Minnesota Statutes*, ch. 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*, sections 10A.01, subd. 11 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 given 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 travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota, 55101, telephone (612) 296-5148.

### IV. Notice of Intent to Cancel Hearing If Fewer than 25 Persons Request a Hearing

PLEASE NOTE THAT THE HEARING, NOTICE OF WHICH IS GIVEN IN PART III ABOVE, WILL BE CANCELLED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE GIVEN IN PART II ABOVE.

To learn whether or not the hearing will be held, please call Mr. Downing at (612) 296-8253 between October 5 and October 11.

Dated: 5 August 1988

John C. Ditmore, Chair

## Rules as Proposed

### 4410.0200 DEFINITIONS AND ABBREVIATIONS.

Subpart 1. to 6. [Unchanged.]

Subp. 6a. Capacity. "Capacity," as used in parts 4410.4300, subpart 17, and 4410.4400, subpart 13, means the maximum daily operational input volume a facility is designed to process on a continuing basis.

Subp. 7. to 9. [Unchanged.]

Subp. 9a. Compost facility. "Compost facility" means a facility used to compost or co-compost solid waste, including:

A. structures and processing equipment used to control drainage or collect and treat leachate; and

B. storage areas for incoming waste, the final product, and residuals resulting from the composting process.

Subp. 9b. Connected actions. Two projects are "connected actions" if a responsible governmental unit determines they are related in any of the following ways:

A. one project would directly induce the other;

B. one project is a prerequisite for the other; or

C. neither project is justified by itself.

Subp. 10. to 22. [Unchanged.]

Subp. 22a. Energy recovery facility. "Energy recovery facility" means a facility used to capture the heat value of solid waste for conversion to steam, electricity, or immediate heat by direct combustion or by first converting the solid waste into an intermediate fuel product. It does not include facilities that produce, but do not burn, refuse-derived fuel.

Subp. 23. to 36. [Unchanged.]

Subp. 37. **Hazardous waste.** "Hazardous waste" has the meaning given in ~~Minnesota Statutes~~, section 116.06, subdivision 13 parts 7045.0129 to 7045.0141.

Subp. 38. to 40. [Unchanged.]

Subp. 40a. Incinerator. "Incinerator" means any furnace used in the process of burning solid waste for the purpose of reducing the volume of waste by removing combustible matter.

Subp. 41. and 42. [Unchanged.]

Subp. 42a. Light industrial facility. "Light industrial facility" means a subcategory of industrial land use with a primary function other than manufacturing and less than 500 employees.

Subp. 43. to 59. [Unchanged.]

Subp. 60. **Phased action.** "Phased action" means two or more projects to be undertaken by the same proposer that a RGU determines:

A. will have environmental effects on the same geographic area; and

B. are substantially certain to be undertaken sequentially over a limited period of time; ~~and~~

~~C. collectively have the potential to have significant environmental effects.~~

Subp. 61. to 65. [Unchanged.]

Subp. 66. [See Repealer.]

Subp. 67. [Unchanged.]

Subp. 68. **Proposer.** "Proposer" means the ~~private~~ person or governmental unit that proposes to undertake or to direct others to undertake a project.

Subp. 69. and 70. [Unchanged.]

Subp. 70a. PUC. "PUC" means the Minnesota Public Utilities Commission.

Subp. 71. [Unchanged.]

Subp. 71a. Refuse-derived fuel. "Refuse-derived fuel" means the product resulting from techniques or processes used to prepare solid waste by shredding, sorting, or compacting for use as an energy source.

Subp. 72. [See Repealer.]

Subp. 73. [Unchanged.]

Subp. 74. [See Repealer.]

Subp. 75. to 79. [Unchanged.]

Subp. 80. ~~Sewer~~ **Sewage collection system.** "~~Sewer~~ Sewage collection system" means a piping or conveyance system that conveys wastewater to a wastewater treatment plant.

Subp. 81. to 84. [Unchanged.]

Subp. 84a. Sports or entertainment facility. "Sports or entertainment facility" means a facility intended for the presentation of sports events and various forms of entertainment or amusement. Examples include sports stadiums or arenas, racetracks, concert halls or amphitheatres, theaters, facilities for pageants or festivals, fairgrounds, amusement parks, and zoological gardens.

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## Proposed Rules

Subp. 85. to 89. [Unchanged.]

**Subp. 89a. Warehousing facility.** “Warehousing facility” means a subcategory of industrial-commercial land use that has as its primary function the storage of goods or materials. Warehousing facilities may include other uses, such as office space or sales, in minor amounts.

Subp. 90. to 92. [Unchanged.]

**Subp. 92a. Water-related land use management district.** “Water-related land use management district” includes:

A. shoreland areas;

B. floodplains;

C. wild and scenic rivers districts;

D. areas subject to the comprehensive land use plan of the Project Riverbend Board under Laws of Minnesota 1982, chapter 627; and

E. areas subject to the comprehensive land use plan of the Mississippi River Headwaters Board under Minnesota Statutes, chapter 114B.

**Subp. 92b. Water-related land use management district ordinance or plan, approved.** “Water-related land use management district ordinance or plan, approved” means:

A. a state-approved shoreland ordinance;

B. a state-approved floodplain ordinance;

C. a state-approved wild and scenic rivers district ordinance;

D. the comprehensive land use plan of the Project Riverbend Board under Laws of Minnesota 1982, chapter 627; or

E. the comprehensive land use plan of the Mississippi River Headwaters Board under Minnesota Statutes, chapter 114B.

**Subp. 92c. Waters of the state.** “Waters of the state” has the meaning given in Minnesota Statutes, section 105.37, subdivision 7.

Subp. 93. to 96. [Unchanged.]

### 4410.0400 GENERAL RESPONSIBILITIES.

Subpart 1. and 2. [Unchanged.]

**Subp. 3. Governmental units, private individuals, citizen groups, and business concerns; trade secret information.** When environmental review documents are required on a project, the proposer of the project and any other person shall supply any data reasonably requested by the RGU which ~~he~~ the proposer has in his or her possession or to which ~~he~~ the proposer has reasonable access.

Information submitted to the RGU that qualifies as trade secret information under Minnesota Statutes, section 13.37, subdivision 1, paragraph (b), must be treated as nonpublic data in accordance with Minnesota Statutes, chapter 13.

Subp. 4. [Unchanged.]

### 4410.1000 PROJECTS REQUIRING AN EAW.

Subpart 1. to 3. [Unchanged.]

**Subp. 4. Connected actions and phased actions.** Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when determining the need for an EAW, preparing the EAW, and determining the need for an EIS.

In connected actions and phased actions where it is not possible to adequately address all the project components or stages at the time of the initial EAW, a new EAW must be completed before approval and construction of each subsequent project component or stage. Each EAW must briefly describe the past and future stages or components to which the subject of the present EAW is related.

For proposed projects such as highways, streets, pipelines, utility lines, or systems where the proposed project is related to a large existing or planned network, for which a governmental unit has determined environmental review is needed, the RGU shall treat the present proposal as the total proposal or select only some of the future elements for present consideration in the threshold determination and EAW. These selections must be logical in relation to the design of the total system or network and must not be made merely to divide a large system into exempted segments.

When review of the total of a project is separated under this subpart, the components or stages addressed in each EAW must include at least all components or stages for which permits or approvals are being sought from the RGU or other governmental units.

Subp. 5. Change in proposed project; new EAW. If after a negative declaration has been issued but before the proposed project has received all approvals or been implemented, the RGU determines that a substantial change has been made in the proposed project that may affect the potential for significant adverse environmental effects, a new EAW is required.

#### **4410.1100 PETITION PROCESS.**

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Determination of RGU.** The EQB's chairperson chair or designee shall determine whether the petition complies with the requirements of subparts 1 and 2. If the petition complies, the chairperson chair or designee shall designate an RGU pursuant to part 4410.0500 and forward the petition to the RGU within five days of receipt of the petition.

Subp. 6. [Unchanged.]

Subp. 7. **Time limits.** The RGU has 15 days from the date of the receipt of the petition to decide on the need for an EAW.

If the decision must be made by a board, council, or other body which meets only on a periodic basis, the time period may be extended by the RGU for an additional 15 days.

For all other RGU's, the EQB's chairperson chair shall extend the 15-day period by not more than 15 additional days upon request of the RGU.

Subp. 8. [Unchanged.]

Subp. 9. Duration of effect of petition. If an RGU cannot act on a petition because no permit application has been filed, the application has been withdrawn, or the application has been denied, the petition remains in effect for no more than one year from the date on which it was filed with the EQB. While the petition remains in effect, part 4410.3100, subparts 1 and 2, applies to any proposed project for which the nature and location is substantially similar to the project identified in the petition.

#### **4410.1300 EAW FORM.**

The EQB chair shall develop an EAW form to be used by the RGU. The EQB chair may approve the use of an alternative EAW form if an RGU demonstrates the alternative form will better accommodate the RGU's function or better address a particular type of project and the alternative form will provide more complete, more accurate, or more relevant information.

The EAW form shall be assessed by the EQB chair periodically and may be altered by the EQB chair to improve the effectiveness of the document.

#### **4410.1700 DECISION ON NEED FOR EIS.**

Subpart 1. **Standard for decision on need for EIS.** An EIS shall be ordered for projects that have the potential for significant environmental effects.

Subp. 2. **Decision-making process.** The decision on the need for an EIS shall be made in compliance with one of the following time schedules:

A. if the decision is to be made by a board, council, or other body which meets only on a periodic basis, the decision shall be made at the body's first meeting more than ten days after the close of the review period or at a special meeting but, in either case, no later than between three and 30 days after the close of the review period; or

B. for all other RGU's the decision shall be made no later than 15 days after the close of the 30-day review period. This 15-day period shall be extended by the EQB chairperson chair by no more than 15 additional days upon request of the RGU.

Subp. 2a. Insufficient information. If the RGU determines that information necessary to a reasoned decision about the potential for, or significance of, one or more possible environmental impacts is lacking, but could be reasonably obtained, the RGU shall either:

A. make a positive declaration and include within the scope of the EIS appropriate studies to obtain the lacking information;  
or

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## Proposed Rules

B. postpone the decision on the need for an EIS, for not more than 30 days, in order to obtain the lacking information. If the RGU postpones the decision, it shall provide written notice of its action, including a brief description of the lacking information, within five days to the project proposer, the EQB staff, and any person who submitted substantive comments on the EAW.

Subp. 3. [Unchanged.]

Subp. 4. **Record of findings supporting decision.** The RGU shall maintain a record, including specific findings of fact, supporting its decision. The record must include specific responses to all substantive and timely comments on the EAW. This record shall either be a separately prepared document or contained within the records of the governmental unit.

Subp. 5. **Distribution of decision.** The RGU's decision shall be provided, within five days, to all persons on the EAW distribution list pursuant to part 4410.1500, to all persons that commented in writing during the 30-day review period, and to any person upon written request. All persons who submitted timely and substantive comments on the EAW shall be sent a copy of the RGU's response to those comments prepared under subpart 4. Upon notification, the EQB staff shall publish the RGU's decision in the EQB Monitor. If the decision is a positive declaration, the RGU shall also indicate in the decision the date, time, and place of the scoping review meeting.

Subp. 6. **Standard.** In deciding whether a project has the potential for significant environmental effects the RGU shall compare the impacts that may be reasonably expected to occur from the project with the criteria in this ~~rule~~ part.

Subp. 7. **Criteria.** In deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:

A. type, extent, and reversibility of environmental effects;

B. cumulative potential effects of related or anticipated future projects;

C. the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority; and

D. the extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or of EIS's previously prepared on similar projects.

Subp. 8. [See Repealer.]

Subp. 9. **Connected actions and phased actions.** Connected actions and phased actions shall be considered a single project for purposes of the determination of need for an EIS.

In phased actions where it is not possible to adequately address all the phases at the time of the initial EIS, a supplemental EIS shall be completed prior to approval and construction of each subsequent phase. The supplemental EIS shall address the impacts associated with the particular phase that were not addressed in the initial EIS.

For proposed projects such as highways, streets, pipelines, utility lines, or systems where the proposed project is related to a large existing or planned network, for which a governmental unit has determined environmental review is needed, the RGU shall treat the present proposal as the total proposal or select only some of the future elements for present consideration in the threshold determination and EIS. These selections shall be logical in relation to the design of the total system or network. They shall not be made merely to divide a large system into exempted segments.

### 4410.2000 PROJECTS REQUIRING AN EIS.

Subpart 1. **Purpose of EIS.** The purpose of an EIS is to provide information for governmental units, the proposer of the project, and other persons to evaluate proposed projects which have the potential for significant environmental effects, to consider alternatives to the proposed projects, and to explore methods for reducing adverse environmental effects.

Subp. 2. **Mandatory EIS categories.** An EIS shall be prepared for any project that meets or exceeds the thresholds of any of the EIS categories listed in part 4410.4400.

Subp. 3. **Discretionary EIS.** An EIS shall be prepared:

A. when the RGU determines that, based on the EAW and any comments or additional information received during the EAW comment period, the proposed project has the potential for significant environmental effects; or

B. when the RGU and proposer of the project agree that an EIS should be prepared.

Subp. 4. **Connected actions and phased actions.** Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when determining the need for an EIS and in preparing the EIS.

In connected actions and phased actions where it is not possible to adequately address all the project components or stages at the time of the initial EIS, a supplemental EIS must be completed before approval and construction of each subsequent project component or stage. The supplemental EIS must address the impacts associated with the particular project component or stage that were not addressed in the initial EIS.

For proposed projects such as highways, streets, pipelines, utility lines, or systems where the proposed project is related to a large existing or planned network, for which a governmental unit has determined environmental review is needed, the RGU shall treat the present proposal as the total proposal or select only some of the future elements for present consideration in the threshold determination and EIS. These selections must be logical in relation to the design of the total system or network and must not be made merely to divide a large system into exempted segments.

When review of the total of a project is divided up under this subpart, the components or stages addressed in each EIS or supplement must include at least all components or stages for which permits or approvals are being sought from the RGU or other governmental units.

Subp. 5. Related actions EIS. An RGU may prepare a single EIS for independent projects with potential cumulative environmental impacts on the same geographic area if the RGU determines that review can be accomplished in a more effective or efficient manner through a related actions EIS. A project must not be included in a related actions EIS if its inclusion would unreasonably delay review of the project compared to review of the project through an independent EIS.

#### **4410.2100 EIS SCOPING PROCESS.**

Subpart 1. **Purpose.** The scoping process shall be used before the preparation of an EIS to reduce the scope and bulk of an EIS, identify only those issues relevant to the proposed project, define the form, level of detail, content, alternatives, time table for preparation, and preparers of the EIS, and to determine the permits for which information will be developed concurrently with the EIS.

Subp. 2. **EAW as scoping document.** All projects requiring an EIS must have an EAW filed with the RGU. The EAW shall be the basis for the scoping process.

For projects which fall within a mandatory EIS category or if a voluntary EIS is planned, the EAW will be used solely as a scoping document. For such projects, the RGU shall prepare and circulate with the EAW a draft scoping decision document that addresses the contents specified by subpart 6 to the extent that information is already available. The purpose of the draft scoping decision document is to facilitate the delineation of issues and analyses to be contained in the EIS. The information in a draft scoping decision document shall be considered as preliminary and subject to revision based on the entire record of the scoping process.

If the need for an EIS has not been determined the EAW will have two functions:

- A. to identify the need for preparing an EIS pursuant to part 4410.1700; and
- B. to initiate discussion concerning the scope of the EIS if an EIS is ordered pursuant to part 4410.1700.

Subp. 3. to 10. [Unchanged.]

Subp. 11. Modification of project; termination of EIS process. After initiation of scoping for an EIS, if the proposed project is modified so that an EIS is no longer mandatory, or the reasons for ordering an EIS no longer apply, the RGU may terminate the EIS process through the procedures of this subpart.

The RGU shall send written notice of its intent to terminate the EIS to all persons who submitted comments on the EIS scope and to all persons on the EAW distribution list under part 4410.1500. The notice shall summarize the reasons for the intended termination of the EIS, identify a contact person to whom comments may be sent, and announce the end of the comment period. The EQB staff shall publish notice in the EQB Monitor, and a press release shall be supplied by the RGU to at least one newspaper of general circulation in the area of the project.

A period of not less than 30 days from the date of publication of the notice in the EQB Monitor shall be provided for interested persons to comment on the need for an EIS on the modified project. The RGU shall determine the need for an EIS on the modified project in accordance with part 4410.1700.

#### **4410.2800 DETERMINATION OF ADEQUACY.**

Subpart 1. [Unchanged.]

Subp. 1a. **Decision by EQB; information needs.** If the EQB will be determining the adequacy of the EIS, the RGU shall submit to the EQB the following information within five days of the filing of the final EIS:

- A. evidence of compliance with distribution requirements for the scoping EAW, draft EIS, and final EIS;

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## Proposed Rules

B. copies of press releases giving notice of EIS scoping, the EIS preparation notice, the draft EIS, and the final EIS, and evidence of submission of each in accordance with the applicable requirements of the rules;

C. copies of all written comments received during the scoping period;

D. a transcript, minutes, or summary of the public scoping meeting;

E. a copy of the scoping decision document;

F. a transcript, minutes, or summary of the public meeting on the draft EIS; and

G. copies of any comments the RGU has received on the final EIS that have not also been supplied to the EQB.

Subp. 2. **Written comments.** Interested persons may submit written comments on the adequacy of the final EIS to the RGU or the EQB, if applicable, at any time prior to the final determination of adequacy for a period of not less than ten days following publication in the EQB Monitor of the notice of availability of the final EIS. The notice of availability of the final EIS shall indicate when the comment period expires.

Subp. 3. to 6. [Unchanged.]

### 4410.3000 SUPPLEMENTAL SUPPLEMENTING AN EIS.

Subpart 1. **When.** An RGU shall prepare a supplement to a final EIS whenever the RGU determines that:

A. substantial changes have been made in the proposed project that affect the potential significant environmental effects of the project; or

B. there is substantial new information or new circumstances that significantly affect the potential environmental effects from the proposed project which have not been considered in the final EIS or that significantly affect the availability of prudent and feasible alternatives with lesser environmental effects.

Subp. 2. **Use.** A supplement to an existing EIS shall be utilized in lieu of a new EIS for expansions of existing projects for which an EIS has been prepared if the RGU determines that a supplement can adequately address the environmental impacts of the project.

Subp. 3. **Preparation, circulation, and filing.** An RGU shall prepare, circulate, and file a supplemental EIS in the same manner as a draft and final EIS unless alternative procedures are approved by the EQB.

Subp. 4. **Determination.** The determination of adequacy of the supplemental EIS shall be made within 120 days after the notice of preparation of the supplemental EIS was published in the EQB Monitor unless the time is extended by consent of the proposer and the RGU or by the governor for good cause.

Subpart 1. **Applicability.** An RGU shall supplement an EIS by preparing a supplemental EIS document in accordance with this part.

Subp. 2. **EIS addendum.** An RGU may make minor revisions to a final EIS by use of an EIS addendum. An EIS addendum may not be used to make revisions required under subpart 3. The addendum shall be distributed to the EQB, to any person who received the final EIS document, and to any other person upon written request. The EQB shall publish notice of the availability of the addendum in the EQB Monitor.

Subp. 3. **Supplement to an EIS.** An RGU shall prepare a supplement to an EIS under any of the following circumstances:

A. whenever after a final EIS has been determined adequate, but before the project becomes exempt under part 4410.4600, subpart 2, item B or D, the RGU determines that either:

(1) substantial changes have been made in the proposed project that affect the potential significant adverse environmental effects of the project; or

(2) there is substantial new information or new circumstances that significantly affect the potential environmental effects from the proposed project that have not been considered in the final EIS or that significantly affect the availability of prudent and feasible alternatives with lesser environmental effects;

B. whenever an EIS has been prepared for an ongoing governmental action and the RGU determines that the conditions of item A, subitem (1) or (2), are met with respect to the action; or

C. whenever an EIS has been prepared for one or more phases of a phased action or one or more components of a connected action and a later phase or another component is proposed for approval or implementation that was not evaluated in the initial EIS.

Subp. 4. **Request for supplement to an EIS.** Any person may request preparation of a supplement to an EIS by submitting a written request to the RGU containing material evidence that a supplement is required under subpart 3. A copy of the request must be sent to the EQB. The RGU shall make a decision on the need for a supplement within 30 days of receipt of the request, and

shall notify the requesting person and the EQB staff of its decision within five days. If the RGU denies the request, the notice must explain the basis for its decision and respond to the issues raised by the requesting person. If the RGU orders a supplement, its basis for the decision must be incorporated into the supplement preparation notice.

Subp. 5. Procedure for preparing a supplement to an EIS. A supplement to an EIS shall be prepared, circulated, and reviewed according to the procedures in items A to E.

A. The scope of a supplement to an EIS must be limited to impacts, alternatives, and mitigation measures not addressed or inadequately addressed in the final EIS. The RGU shall adopt a scope for the supplement as part of the preparation notice. The RGU may consult with any person in order to obtain information relevant to the scoping of a supplement, and may hold public meetings to obtain the information. Reasonable notice must be given of any meetings. All meetings must be open to the public.

B. The RGU shall adopt and distribute a notice of the preparation of the supplement to the EIS. The notice must contain:

(1) the title of the EIS being supplemented and its approximate date of completion;

(2) a brief description of the situation necessitating the preparation of the supplement, including a description of how the changes in the proposed project or new information may affect the potential significant environmental effects from the project or the availability of prudent and feasible alternatives;

(3) the scope of the supplement including issues to be analyzed, alternatives to be examined, and studies to be undertaken;  
and

(4) the proposed time schedule for the preparation of the supplement.

The preparation notice must be distributed to all persons who received the final EIS and to all persons on the EAW distribution list under part 4410.1500. The EQB shall publish a summary of the preparation notice in the EQB Monitor.

If, within 20 days of publication of the preparation notice in the EQB Monitor, any person submits written comments to the RGU objecting to the scope of the supplement, the RGU shall give due consideration to modifying its scope based on the comments. The RGU shall include in the draft supplement document a copy of any timely comments received objecting to the scope and its response to the comments.

C. The RGU shall prepare a draft supplement for the purposes of receiving public comments. The draft document must conform to the requirements of parts 4410.2300, items D to J, 4410.2400, and 4410.2500. The draft supplement must be distributed and reviewed in accordance with part 4410.2600, subparts 2 to 10, except that the informational meeting must be held not less than ten days after publication of notice in the EQB Monitor.

D. The RGU shall prepare and distribute a final supplement to an EIS in accordance with part 4410.2700.

E. The determination of adequacy of the final supplement to an EIS must be made in accordance with part 4410.2800.

Subp. 6. Time limit for supplement to an EIS. A determination of the adequacy of a supplement to an EIS must be made within 120 days of the order for preparation of the supplement, unless the time is extended by the consent of the proposer and RGU or by the governor for good cause.

Subp. 7. Treatment of expansions of a project for which an EIS was prepared. Subsequent expansions of, or additions to, implemented projects for which an EIS was prepared must be treated as independent projects for the determination of the need for environmental review and must be reviewed in accordance with parts 4410.1000 to 4410.2800 rather than according to this part, unless the expansion or addition is part of a phased action or connected action requiring review under subpart 3, item C. Tiering of information from the original EIS may be used to minimize duplication of paperwork, provided that the original EIS is reasonably available for public and agency review.

#### **4410.3100 PROHIBITION ON FINAL GOVERNMENTAL DECISIONS.**

Subpart 1. EAW filed or required Prohibitions. On any project for which a petition for an EAW is filed or an EAW is required or ordered under parts 4410.0200 to 4410.6500, no final governmental decision to grant a permit or other approval required, or to commence the project shall be made until either a petition has been dismissed, a negative declaration has been issued, or a determination of adequacy of the EIS has been made. If an EAW or EIS is required for a governmental action under parts 4410.0200 to 4410.7800, or if a petition for an EAW is filed under part 4410.1100, a project may not be started and a final governmental decision may not be made to grant a permit, approve a project, or begin a project, until:

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## Proposed Rules

- A. a petition for an EAW is dismissed;
- B. a negative declaration on the need for an EIS is issued;
- C. an EIS is determined adequate; or
- D. a variance is granted under subparts 3 to 7 or the action is an emergency under subpart 8.

Subp. 2. ~~EIS adequate or filed~~ **Public projects, prohibitions.** Except for projects under subpart 4 or 5, for any project for which an EIS is required, no final governmental decision to grant a permit or other approval required, or to commence the project shall be made until the RGU or the EQB has determined the final EIS is adequate. Where public hearings are required by law to precede issuance of a permit, public hearings shall not be held until after filing of a draft EIS. If a project subject to review under parts 4410.0200 to 4410.7800 is proposed to be carried out or sponsored by a governmental unit, the governmental unit shall not take any action with respect to the project, including the acquisition of property, if the action will prejudice the ultimate decision on the project, until a petition has been dismissed, a negative declaration has been issued, or until the final EIS has been determined adequate by the RGU or the EQB, unless the project is an emergency under subpart 9 or a variance is granted under subparts 4 to 8. An action prejudices the ultimate decision on a project if it tends to determine subsequent development or to limit alternatives or mitigative measures.

Subp. 3. [See Repealer.]

Subp. 4. [Unchanged.]

Subp. 5. **Variance applications.** The EQB ~~chairperson~~ chair shall publish a notice of the variance application in the EQB Monitor within 15 days after receipt of the application. The EQB ~~chairperson~~ chair shall issue a press release to at least one newspaper of general circulation in the area where the project is proposed. The notice and press release shall summarize the reasons given for the variance application and specify that comments on whether a variance should be granted must be submitted to the EQB within 20 days after the date of publication in the EQB Monitor.

Subp. 6. to 8. [Unchanged.]

Subp. 9. **Emergency action.** In the rare situation when immediate action by a governmental unit or person is essential to avoid or eliminate an imminent threat to the public health or safety or a serious threat to natural resources, a proposed project may be undertaken without the environmental review which would otherwise be required by parts 4410.0200 to 441.7800. The governmental unit or person must demonstrate to the EQB ~~chairperson~~ chair, either orally or in writing, that immediate action is essential and must receive authorization from the EQB ~~chairperson~~ chair to proceed. Authorization to proceed shall be limited to those aspects of the project necessary to control the immediate impacts of the emergency. Other aspects of the project remain subject to review under parts 4410.0200 to 4410.6500.

### **4410.3110 ALTERNATIVE URBAN AREAWIDE REVIEW PROCESS.**

**Subpart 1. Applicability.** A local unit of government may use the procedures of this part instead of the procedures of parts 4410.1100 to 4410.1700 and 4410.2100 to 4410.3000 to review anticipated residential and commercial development in a particular geographic area within its jurisdiction, if the local unit has adopted a comprehensive plan that includes at least the elements in items A to C.

A. A land use plan designating the existing and proposed location, intensity, and extent of use of land and water for residential, commercial, industrial, agricultural, and other public and private purposes.

B. A public facilities plan describing the character, location, timing, sequence, function, use, and capacity of existing and future public facilities of the local governmental unit. The public facilities plan must include at least the following parts:

(1) a transportation plan describing, designating, and scheduling the location, extent, function, and capacity of existing and proposed local public and private transportation facilities and services; and

(2) a sewage collection system policy plan describing, designating, and scheduling the areas to be served by the public system, the existing and planned capacities of the public system, and the standards and conditions under which the installation of private sewage treatment systems will be permitted.

C. An implementation program describing public programs, fiscal devices, and other actions to be undertaken to implement the comprehensive plan. The implementation plan must include a description of official controls addressing the matters of zoning, subdivision, and private sewage treatment systems, a schedule for the implementation of those controls, and a capital improvements program for public facilities.

A local governmental unit that has an adopted comprehensive plan that lacks any of the elements required by this subpart may qualify for the use of the procedures of this part upon a demonstration to the EQB chair that the lacking element would have no substantial effect on the purpose of or outcome of the environmental review and upon receiving authorization from the EQB chair to use these procedures.

**Subp. 2. Relationship to specific development projects.** Upon completion of review under this part, residential and commercial development projects within the boundaries established under subpart 3 that are consistent with development assumptions established under subpart 3 are exempt from review under parts 4410.1100 to 4410.1700 and 4410.2100 to 4410.3000 as long as the approval and construction of the project complies with the conditions of the plan for mitigation developed under subpart 5.

If a specific residential or commercial project, that is subject to an EAW or EIS, is proposed within the boundaries of an area for which an alternative review under this part is planned but has not yet been completed, the RGU may, at its discretion, review the specific project either through the alternative areawide review procedures or through the EAW or EIS procedures. If the project is reviewed through the alternative areawide review procedures, at least one set of development assumptions used in the process must be consistent with the proposed project, and the project must incorporate the applicable mitigation measures developed through the process.

The prohibitions of part 4410.3100, subparts 1 to 3, apply to all projects for which review under this part substitutes for review under parts 4410.1100 to 4410.1700 or 4410.2100 to 4410.3000. These prohibitions terminate upon the adoption by the RGU of the environmental analysis document and plan for mitigation under subpart 5.

**Subp. 3. Order for review; geographic area designation and specification of development.** The RGU shall adopt an order for each review under this part that specifies the boundaries of the geographic area within which the review will apply and specifies the anticipated nature, location, and intensity of residential and commercial development within those boundaries. The RGU may specify more than one scenario of anticipated development provided that at least one scenario is consistent with the adopted comprehensive plan. At least one scenario must be consistent with any known development plans of property owners within the area. The RGU may delineate subareas within the area, as appropriate to facilitate planning and review of future development, and allocate the overall anticipated development among the subareas.

**Subp. 4. Environmental analysis document; form and content.** The EQB chair shall develop a standard list of content and format for the environmental analysis document to be used for review under this part. The standard content and format must be similar to that of the EAW, but must provide for a level of analysis comparable to that of an EIS for impacts typical of urban residential and commercial development. The standard content and format must provide for a certification by the RGU that the comprehensive plan requirements of subpart 1 are met. The EQB chair shall periodically review the standard content and format and make revisions to improve its utility.

**Subp. 5. Procedures for review.** The procedures in items A to H must be used for review under this part.

**A.** The RGU shall prepare a draft environmental analysis document addressing each of the development scenarios selected under subpart 2 using the standard content and format provided by the EQB under subpart 4. The draft document must be distributed and noticed in accordance with part 4410.1500.

**B.** Reviewers shall have 30 days from the date of notice of availability of the draft environmental analysis in the EQB Monitor to submit written comments to the RGU. Reviewers that are governmental units shall be granted a 15-day extension by the RGU upon a written request for good cause. A copy of the request must be sent to the EQB.

Comments must address the accuracy and completeness of the information provided in the draft analysis, potential impacts that warrant further analysis, further information that may be required in order to secure permits for specific projects in the future, and mitigation measures or procedures necessary to prevent significant environmental impacts within the area when actual development occurs.

Governmental units shall also state in their comments whether or not they wish to be notified by the RGU upon receipt of applications for specific development projects within the area.

**C.** The RGU shall revise the environmental analysis document based on comments received during the comment period. The RGU shall include in the document a section specifically responding to each timely, substantive comment received that indicates in what way the comment has been addressed. If the RGU believes a request for additional analysis is unreasonable, it may consult with the EQB chair before responding to the comment.

The RGU shall include in the document a plan for mitigation specifying the mitigation measures that will be imposed upon future development within the area in order to avoid or mitigate potential environmental impacts. The plan shall contain a description of how each mitigation measure will be implemented, including a description of the involvement of other agencies, if appropriate.

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## Proposed Rules

D. The RGU shall distribute the revised environmental analysis document in the same manner as the draft document and also to any persons who commented on the draft document and to the EQB staff. State agencies and the Metropolitan Council of the Twin Cities have ten days from the date of receipt of the revised document to file an objection to the document with the RGU. A copy of any letter of objection must be filed with the EQB staff. An objection may be filed only if the agency filing the objection has evidence that the revised document contains inaccurate or incomplete information relevant to the identification and mitigation of potentially significant environmental impacts or that the proposed plan for mitigation will be inadequate to prevent potentially significant environmental impacts from occurring.

E. Unless an objection is filed in accordance with item D, the RGU shall adopt the revised environmental analysis document and the plan for mitigation at its first regularly scheduled meeting held 15 or more days after the distribution of the revised document. The RGU shall submit evidence of the adoption of the document and plan for mitigation to the EQB staff and all agencies that have stated that they wish to be informed of any future projects within the area as part of their comments on the draft environmental analysis document. The EQB shall publish a notice of the adoption of the documents and the completion of the review process in the EQB Monitor.

Upon adoption of the environmental analysis document and the plan for mitigation, residential and commercial projects within the area that are consistent with the assumptions of the document and that comply with the plan for mitigation are exempt from review under parts 4410.1100 to 4410.1700 and 4410.2100 to 4410.2800.

F. If an objection is filed with the RGU in accordance with item D, within five days of receipt of the objection the RGU shall consult with the objecting agency about the issues raised in the objection and shall advise the EQB staff of its proposed response to the objection. At the request of the RGU, the objecting agency, the EQB staff, and any other affected agency shall meet with the RGU as soon as practicable to attempt to resolve the issues raised in the objection.

Within 30 days after receipt of the objection the RGU shall submit a written response to the objecting agency and the EQB chair. The response shall address each of the issues raised in the objection. The RGU may address an issue by either revising the environmental analysis document or plan for mitigation, or by explaining why it believes that the issue is not relevant to the identification and mitigation of potentially significant environmental impacts.

G. Within five days of receipt of the RGU's response to the objection, the objecting agency shall advise the EQB chair of whether it accepts the response and withdraws its objection or continues to object. If the objecting agency continues to object, the EQB chair shall place the matter on the agenda of the next regularly scheduled EQB meeting or of a special meeting.

H. If the matter is referred to the EQB under item G, the EQB shall determine whether the environmental analysis document and plan for mitigation are adequate, conditionally adequate, or inadequate. If the EQB finds the documents conditionally adequate or inadequate, the EQB shall specify the revisions necessary for adequacy. The EQB shall only find the documents inadequate if it determines that they contain inaccurate or incomplete information necessary to the identification and mitigation of potentially significant environmental impacts or that the proposed plan for mitigation will be inadequate to prevent the occurrence of potentially significant environmental impacts.

If the EQB finds the documents adequate or conditionally adequate, the RGU shall adopt the documents under item E. If the documents were found conditionally adequate by the EQB, the RGU shall first revise the documents as directed by the EQB. If the EQB finds the documents inadequate, the RGU has 30 days to revise the documents and circulate them for review in accordance with items D to H.

Subp. 6. Time limit. Unless an objection is filed under subpart 5, item D, the RGU shall adopt the environmental analysis document and plan for mitigation no later than at its first meeting held more than 120 days after the date on which the RGU ordered review under this part. The time limit may be extended upon the agreement of all proposers whose project schedules are affected by the review.

Subp. 7. Updating the review. To remain valid as a substitute form of review, the environmental analysis document and the plan for mitigation must be revised if any of the circumstances in items A to H apply.

A. Five years have passed since the RGU adopted the original environmental analysis document and plan for mitigation or the latest revision. This item does not apply if all development within the area has been given final approval by the RGU.

B. A comprehensive plan amendment is proposed that would allow an increase in development over the levels assumed in the environmental analysis document.

C. Total development within the area would exceed the maximum levels assumed in the environmental analysis document.

D. Development within any subarea delineated in the environmental analysis document would exceed the maximum levels assumed for that subarea in the document.

E. A substantial change is proposed in public facilities intended to service development in the area that may result in increased adverse impacts on the environment.

F. Development or construction of public facilities will occur on a schedule other than that assumed in the environmental analysis document or plan for mitigation so as to substantially increase the likelihood or magnitude of potential adverse environmental impacts or to substantially postpone the implementation of identified mitigation measures.

G. New information demonstrates that important assumptions or background conditions used in the analysis presented in the environmental analysis document are substantially in error and that environmental impacts have consequently been substantially underestimated.

H. The RGU determines that other substantial changes have occurred that may affect the potential for, or magnitude of, adverse environmental impacts.

The environmental analysis document and plan for mitigation must be revised by preparing, distributing, and reviewing revised documents in accordance with subpart 5, items D to H, except that the documents must be distributed to all persons on the EAW distribution list under part 4410.1500. Persons not entitled to object to the documents under subpart 5, item D, may submit comments to the RGU suggesting changes in the documents.

Subp. 8. Report to EQB. The EQB chair may ask the RGU to report on the status of actual development within the area, and on the status of implementation of the plan for mitigation. Upon request, the RGU shall report to the EQB chair within 30 days.

#### **4410.3600 ALTERNATIVE REVIEW.**

Subpart 1. [Unchanged.]

Subp. 2. **Exemption.** If the EQB accepts a governmental unit's process as an adequate alternative review procedure, projects reviewed under that alternative review procedure shall be exempt from environmental review under parts 4410.1100 to 4410.1700, and 4410.2100 to 4410.3000 but the EQB retains its authority under part 4410.2800, subpart 1, to determine the adequacy of the environmental documents that substitute for the EIS in the approved process. On approval of the alternative review process, the EQB shall provide for periodic review of the alternative procedure to ensure continuing compliance with the requirements and intent of these environmental review procedures. The EQB shall withdraw its approval of an alternative review procedure if review of the procedure indicates that the procedure no longer fulfills the intent and requirements of the Minnesota Environmental Policy Act and parts 4410.0200 to 4410.6500. A project in the process of undergoing review under an approved alternative process shall not be affected by the EQB's withdrawal of approval.

#### **4410.3800 GENERIC EIS.**

Subpart 1. **Order for.** A generic EIS may be ordered by the EQB to study types of projects that are not adequately reviewed on a case-by-case basis.

Subp. 2. ~~**EQB as RGU.**~~ If the EQB orders a generic EIS, The EQB shall may be the RGU for the generic EIS or may designate another governmental unit to be the RGU, if that governmental unit consents to be the RGU. In determining which governmental unit should be the RGU for a generic EIS, the EQB shall consider the following factors with respect to each prospective RGU:

- A. the nature and extent of the permit or approval authority;
- B. expertise in the subject matter of the generic EIS, including the ability to address any complex issues;
- C. available resources to complete the generic EIS; and
- D. ability to provide an objective appraisal of potential impacts.

Whether the generic EIS is done by the EQB or another governmental unit, the document must be prepared using an interdisciplinary approach in accordance with part 4410.2200.

Subp. 3. to 6. [Unchanged.]

Subp. 7. **Content.** In addition to content requirements specified by the scoping process, the generic EIS shall contain the following:

- A. any new data that has been gathered or the results of any new research that has been undertaken as part of the generic EIS preparation;
- B. a description of the possible impacts and likelihood of occurrence, the extent of current use, and the possibility of future development for the type of action; ~~and~~

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## Proposed Rules

C. alternatives including recommendations for geographic placement of the type of action to reduce environmental harm, different methods for construction and operation, and different types of actions that could produce the same or similar results as the subject type of action but in a less environmentally harmful manner; and

D. if appropriate, a description of an alternative form of review that is proposed to be used to review specific projects whose impacts have been considered in the generic EIS. An alternative review proposal contained in a generic EIS must be approved by the EQB under part 4410.3600 prior to use.

Subp. 8. and 9. [Unchanged.]

### 4410.4300 MANDATORY EAW CATEGORIES.

Subpart 1. **Threshold test.** An EAW must be prepared for projects that meet or exceed the threshold of any of subparts 2 to ~~34~~ 34, unless the project meets or exceeds any thresholds of part 4410.4400, in which case an EIS must be prepared.

Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when comparing the project or projects to the thresholds of this part and part 4410.4400.

Subp. 2. to 6. [Unchanged.]

Subp. 7. **Pipelines.** Items A and B designate the RGU for the type of project listed:

A. For ~~construction~~ routing of a pipeline, greater than six inches in diameter and having more than ~~50~~ 0.75 miles of its length in Minnesota, used for the transportation of coal, crude petroleum fuels, or oil or their derivatives, the EQB shall be the RGU.

B. For ~~construction~~ routing of a pipeline for transportation of natural or synthetic gas at pressures in excess of ~~200~~ 275 pounds per square inch with ~~50~~ 0.75 miles or more of its length in Minnesota, the EQB shall be the RGU.

Items A and B do not apply to repair or replacement of an existing pipeline within an existing right-of-way or to a pipeline located entirely within a refining, storage, or manufacturing facility.

Subp. 8. and 9. [Unchanged.]

Subp. 10. **Storage facilities.** Items A to C designate the RGU for the type of project listed:

A. For construction of a facility designed for or capable of storing more than 7,500 tons of coal or with an annual throughput of more than 125,000 tons of coal; or the expansion of an existing facility by these respective amounts, the PCA shall be the RGU.

B. For construction of a facility on a single site designed for or capable of storing 1,000,000 gallons or more of hazardous materials, the PCA shall be the RGU.

C. For construction of a facility designed for or capable of storing on a single site 100,000 gallons or more of liquefied natural gas ~~or~~ synthetic gas, or anhydrous ammonia, the PCA shall be the RGU.

Subp. 11. to 13. [Unchanged.]

Subp. 14. **Industrial, commercial, and institutional facilities.** Items A ~~and~~ B, B, and C designate the RGU for the type of project listed, except as provided in items ~~D~~ D and ~~E~~ E:

A. For construction of a new or expansion of an existing warehousing or light industrial facility equal to or in excess of the following thresholds, expressed as gross floor space, the local governmental unit shall be the RGU:

(1) unincorporated area, 150,000;

(2) third or fourth class city, 300,000;

(3) second class city, 450,000;

(4) first class city, 600,000.

B. For construction of a new or expansion of an existing industrial, commercial, or institutional facility, other than a warehousing or light industrial facility, equal to or in excess of the following thresholds, expressed as gross floor space, the local government unit shall be the RGU:

(1) unincorporated area, 100,000 square feet;

(2) third or fourth class city, 200,000 square feet;

(3) second class city, 300,000 square feet;

(4) first class city, 400,000 square feet.

~~B-C.~~ For construction of a new or expansion of an existing industrial, commercial, or institutional facility of 20,000 or more square feet of ground area, if the local governmental unit has not adopted approved ~~shoreland, flood plain, or wild and scenic rivers~~

land use district ordinances; the Mississippi headwaters plan or the Project Riverbend plan water-related land use management district ordinances or plans, as applicable, and either the project involves riparian frontage; or 20,000 or more square feet of ground area to be developed is within a shoreland area, delineated flood plain, state or federally designated wild and scenic rivers district, Minnesota River Project Riverbend area, or the Mississippi headwaters area water-related land use management district, the local government unit shall be the RGU. However, this item only applies to shoreland areas, floodplains, and state wild and scenic rivers land use districts if the local unit of government has received official notice from the Department of Natural Resources that it must adopt applicable land use management district ordinances within a specific period of time.

~~C.~~ D. This subpart applies to any industrial, commercial, or institutional project which includes multiple components, if there are mandatory categories specified in subparts 2 to 13, 16, 17, 20, 21, 23, 25, or 29, or part 4410.4400, subparts 2 to 10, 12, 13, 15, or 17 for two or more of the components, regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the entire project must be compared to the thresholds specified in items A and B to determine the need for an EAW. If the project meets or exceeds the thresholds specified in any other subpart as well as that of item A or B, the RGU must be determined as provided in part 4410.0500, subpart 1.

~~D.~~ E. This subpart does not apply to projects for which there is a single mandatory category specified in subparts 2 to 13, 16, 17, 20, ~~21~~, 23, 25, ~~or 29~~, or 34, or part 4410.4400, subparts 2 to 10, 12, 13, ~~15~~, ~~or 17~~, or 22, regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the need for an EAW must be determined by comparison of the project to the threshold specified in the applicable subpart, and the RGU must be the governmental unit assigned by that subpart.

Subp. 15. **Air pollution.** Items A and B designate the RGU for the type of project listed:

A. For construction of a stationary source facility that generates 100 tons or more per year of any single air pollutant after installation of air pollution control equipment, the PCA shall be the RGU.

B. For construction of a new parking facility for ~~1,000~~ 2,000 or more vehicles, the PCA shall be the RGU, except that this category does not apply to any parking facility which is part of a project reviewed pursuant to part 4410.4300, subpart 14 ~~or 19, 32, or 34~~, or part 4410.4400, subpart 11 ~~or 14~~, 21, or 22.

Subp. 16. **Hazardous waste.** Items A to D designate the RGU for the type of project listed:

A. For construction or expansion of a hazardous waste disposal facility, the PCA shall be the RGU.

B. For construction of a hazardous waste processing facility ~~that sells processing services to generators, other than the owner and operator of the facility, of 1,000 or more kilograms per month capacity, or expansion of the facility by~~ with a capacity of 1,000 or more kilograms per month ~~capacity~~, the PCA shall be the RGU.

C. For ~~construction~~ expansion of a hazardous waste processing facility of 1,000 or more kilograms per month capacity ~~or expansion of a facility by 1,000 or more kilograms per month capacity if the facility is located in a shoreland area, delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, the Mississippi headwaters area, or in an area characterized by soluble bedrock that increases its capacity by ten percent or more~~, the PCA shall be the RGU.

D. For construction or expansion of a facility that sells hazardous waste storage services to generators other than the owner and operator of the facility or construction of a facility at which a generator's own hazardous wastes will be stored for a time period in excess of 90 days, if the facility is located in a shoreland area, delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, Mississippi headwaters area water-related land use management district, or in an area characterized by soluble bedrock, the PCA shall be the RGU.

Subp. 17. **Solid waste.** ~~Items A to E designate the RGU for the type of project listed:~~ For the type of project listed in items A to E, the PCA is the RGU unless the project will be constructed within the seven-county Twin Cities metropolitan area, in which case the Metropolitan Council is the RGU.

A. ~~For~~ Construction of a mixed municipal solid waste disposal facility for up to 100,000 cubic yards of waste fill per year, ~~the PCA or Metropolitan Council shall be the RGU.~~

B. ~~For~~ Expansion by 25 percent or more of previous capacity of a mixed municipal solid waste disposal facility for up to 100,000 cubic yards of waste fill per year, ~~the PCA or Metropolitan Council shall be the RGU.~~

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## Proposed Rules

C. ~~For~~ Construction or expansion of a mixed municipal solid waste transfer station for 300,000 or more cubic yards per year, the PCA or Metropolitan Council shall be the RGU.

D. ~~For~~ Construction or expansion of a mixed municipal solid waste ~~resource energy~~ recovery facility ~~for 400 or incinerator,~~ or the utilization of an existing facility for the combustion of mixed municipal solid waste or refuse-derived fuel, with a capacity of 30 or more tons per day of input, the PCA or Metropolitan Council shall be the RGU.

E. ~~For~~ Construction or expansion of a mixed municipal solid waste compost facility or a refuse-derived fuel production facility with a capacity of 50 or more tons per day of input.

F. Expansion by at least ten percent but less than 25 percent of previous capacity of a mixed municipal solid waste disposal facility for 100,000 cubic yards or more of waste fill per year, the PCA or Metropolitan Council shall be the RGU.

G. ~~For~~ construction or expansion of a mixed municipal solid waste resource recovery facility ash landfill receiving ash from an incinerator that burns refuse-derived fuel or mixed municipal solid waste, the PCA is the RGU.

Subp. 18. Sewage systems. Items A and B designate the RGU for the type of project listed:

A. For expansion, modification, or replacement of a municipal or domestic sewer sewage collection system resulting in an increase in ~~hydraulic capacity design average daily flow~~ of any part of that system by:

(1) 500,000 gallons per day or more in a first or second class city and in any city served by the Metropolitan Waste Control Commission System or the Western Lake Superior Sanitary Sewer District System;

(2) 100,000 gallons per day or more in a third class city not served by the Metropolitan Waste Control Commission System or the Western Lake Superior Sanitary Sewer District System;

(3) 50,000 gallons per day or more in a fourth class city not served by the Metropolitan Waste Control Commission System or the Western Lake Superior Sanitary Sewer District System; or

(4) 50,000 gallons per day or more in an unincorporated sewered area, the PCA shall be the RGU.

B. For expansion or reconstruction of an existing municipal or domestic wastewater treatment facility which results in an increase of 50 percent or more of its average wet weather design flow capacity, or construction of a new municipal or domestic wastewater treatment facility with an average wet weather design flow capacity of ~~30,000~~ 50,000 gallons per day or more, the PCA shall be the RGU.

Subp. 19. Residential development. An EAW is required for residential development if the total number of units that may ultimately be developed on all contiguous land owned or under an option to purchase by the proposer, and that is zoned for residential development or is identified for residential development by an applicable comprehensive plan, equals or exceeds a threshold of this subpart. In counting the total number of ultimate units, the RGU shall include the number of units in any plans of the proposer; for land for which the proposer has not yet prepared plans, the RGU shall use as the number of units the product of the number of acres multiplied by the maximum number of units per acre allowable under the applicable zoning ordinance. If the total project requires review but future phases are uncertain, the RGU may review the ultimate project sequentially in accordance with part 4410.1000, subpart 4.

If a project consists of mixed unattached and attached units, an EAW must be prepared if the sum of the quotient obtained by dividing the number of unattached units by the applicable unattached unit threshold of item A or B, plus the quotient obtained by dividing the number of attached units by the applicable attached unit threshold of item A or B, equals or exceeds one. Items A and B designate the RGU for the type of project listed. ~~If a development consists of both attached and unattached units, each individual unit in a group of attached units shall be considered as an unattached unit.~~

A. The local governmental unit is the RGU for construction of a permanent or potentially permanent residential development of:

(1) 50 or more unattached or 75 or more attached units in an unsewered unincorporated area or 100 unattached units or 150 attached units in a sewered unincorporated area;

(2) 100 ~~or more~~ unattached units or 150 ~~or more~~ attached units in a ~~third or fourth class city or sewered unincorporated area that does not meet the conditions of subitem (4);~~

(3) ~~150 or more~~ 100 unattached units or 225 ~~or more~~ 150 attached units in a ~~second class city meeting the conditions of subitem (4) if the project is not consistent with the adopted comprehensive plan;~~ or

(4) ~~200 or more~~ 250 unattached units or 300 ~~or more~~ 375 attached units in a first class city, the local government unit shall be the RGU within the seven-county Twin Cities metropolitan area that has adopted a comprehensive plan under Minnesota Statutes, section 473.859, or in a city not located within the seven-county Twin Cities metropolitan area that has filed with the EQB chair a certification that it has adopted a comprehensive plan containing the following elements:

(i) a land use plan designating the existing and proposed location, intensity, and extent of use of land and water for residential, industrial, agricultural, and other public and private purposes;

(ii) a transportation plan describing, designating, and scheduling the location, extent, function, and capacity of existing and proposed local public and private transportation facilities and services;

(iii) a sewage collection system policy plan describing, designating, and scheduling the areas to be served by the public system, the existing and planned capacities of the public system, and the standards and conditions under which the installation of private sewage treatment systems will be permitted;

(iv) a capital improvements plan for public facilities; and

(v) an implementation plan describing public programs, fiscal devices, and other actions to be undertaken to implement the comprehensive plan, and a description of official controls addressing the matters of zoning, subdivision, private sewage systems, and a schedule for the implementation of those controls. The EQB chair may specify the form to be used for making a certification under this subitem.

B. For construction of a permanent or potentially permanent residential development of 20 or more unattached units or of 30 or more attached units, if the local governmental unit has not adopted ~~state approved shoreland, flood plain, or wild and scenic rivers land use district ordinances, the Mississippi headwaters plan, or the Project Riverbend plan~~ water-related land use management district ordinances or plans, as applicable, and either, the project involves riparian frontage; or five or more acres of the development is within a ~~shoreland, delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area~~ water-related land use management district, the local government unit shall be the RGU. However, this item only applies to shoreland areas, floodplains, and state wild and scenic rivers land use districts if the local governmental unit has received official notice from the Department of Natural Resources that it must adopt applicable land use management district ordinances within a specified period of time.

Subp. 20. [Unchanged.]

Subp. 21. **Airport runway projects.** For construction of a runway extension that would upgrade an existing airport runway to permit usage by aircraft over 12,500 pounds that are at least three decibels louder than aircraft currently using the runway, the DOT or local government unit shall be the RGU.

Subp. 22. and 23. [Unchanged.]

Subp. 24. **Water appropriation and impoundments.** Items A to C designate the RGU for the type of project listed:

A. For a new appropriation for commercial or industrial purposes of either surface water or ground water averaging 30,000,000 gallons per month; ~~or exceeding 2,000,000 gallons in any day during the period of use;~~ or a new appropriation of either ground water or surface water for irrigation of 540 acres or more in one continuous parcel from one source of water, the DNR shall be the RGU.

B. For a new or additional permanent impoundment of water creating a water surface of 160 or more acres, the DNR shall be the RGU.

C. For construction of a Class II dam, the DNR shall be the RGU.

Subp. 25. [Unchanged.]

Subp. 26. **Stream diversion.** For the diversion or channelization of ~~a designated trout stream or~~ a natural watercourse with a total watershed of ten or more square miles or a designated trout stream, unless exempted by part 4410.4600, subpart 14, item E, or 17, the local government unit shall be the RGU.

Subp. 27. [Unchanged.]

Subp. 28. **Agriculture and forestry.** Items A ~~and B~~ to D designate the RGU for the type of project listed:

A. to C. [Unchanged.]

D. For projects resulting in the permanent conversion of 80 or more acres of agricultural, forest, or naturally vegetated land to a more intensive, developed land use, the local government unit shall be the RGU, except that this item does not apply to agricultural land inside the boundary of the Metropolitan Urban Service Area established by the Metropolitan Council.

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## Proposed Rules

Subp. 29. **Animal feedlots.** For the construction of an animal feedlot facility with a capacity of 1,000 animal units or more or the expansion of an existing facility by 1,000 animal units or more or construction of a total confinement animal feedlot facility of 2,000 animal units or more or the expansion of an animal feedlot facility by 2,000 animal units or more if the expansion is a total confinement facility, the PCA shall be the RGU if the feedlot is in a shoreland, delineated flood plain, or Karst area; otherwise the local unit of government shall be the RGU.

Subp. 30. and 31. [Unchanged.]

Subp. 32. Mixed residential and industrial-commercial projects. If a project includes both residential and industrial-commercial units, the project must have an EAW prepared if the sum of the quotient obtained by dividing the number of residential units by the applicable residential threshold of subpart 19, plus the quotient obtained by dividing the amount of industrial-commercial gross floor space by the applicable industrial-commercial threshold of subpart 14, equals or exceeds one. The local governmental unit is the RGU.

Subp. 33. Communications towers. For construction of a communications tower equal to or in excess of 500 feet in height, the local governmental unit is the RGU.

Subp. 34. Sports or entertainment facilities. For construction of a new sports or entertainment facility designed for or expected to accommodate a peak attendance of 5,000 persons, or the expansion of an existing sports or entertainment facility by this amount, the local governmental unit is the RGU.

### 4410.4400 MANDATORY EIS CATEGORIES.

Subpart 1. **Threshold test.** An EIS must be prepared for projects that meet or exceed the threshold of any of subparts 2 to ~~20~~ 24. Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when comparing the project or projects to the thresholds of this part.

Subp. 2. to 10. [Unchanged.]

Subp. 11. **Industrial, commercial, and institutional facilities.** Items A ~~and~~, B, ~~and~~ C designate the RGU for the type of project listed, except as provided in items ~~C~~ D and ~~D~~ E:

A. For construction of a new or expansion of an existing warehousing or light industrial facility equal to or in excess of the following thresholds, expressed as gross floor space, the local governmental unit is the RGU:

- (1) unincorporated area, 375,000;
- (2) third or fourth class city, 750,000;
- (3) second class city, 1,000,000;
- (4) first class city, 1,500,000.

B. For construction of a new or expansion of an existing industrial, commercial, or institutional facility, other than a warehousing or light industrial facility, equal to or in excess of the following thresholds, expressed as gross floor space, the local government unit shall be the RGU:

- (1) unincorporated area, 250,000 square feet;
- (2) third or fourth class city, 500,000 square feet;
- (3) second class city, 750,000 square feet;
- (4) first class city, 1,000,000 square feet.

~~B- C.~~ C. For construction of a new or expansion of an existing industrial, commercial, or institutional facility of 100,000 or more square feet of ground area, if the local governmental unit has not adopted state approved shoreland, flood plain, or wild and scenic rivers land use district ordinances, the Mississippi headwaters plan or the Project Riverbend plan water-related land use management district ordinances or plans, as applicable, and either the project involves riparian frontage; or 100,000 or more square feet of ground area to be developed is within a shoreland area, delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area water-related land use management district, the local government unit shall be the RGU. However, this item only applies to shoreland areas, floodplains, and state wild and scenic rivers land use districts if the local governmental unit has received official notice from the Department of Natural Resources that it must adopt applicable land use management ordinances within a specified period of time.

~~C- D.~~ D. This subpart applies to any industrial, commercial, or institutional project which includes multiple components, if there are mandatory categories specified in subparts 2 to 10, 12, 13, 15, or 17, or part 4410.4300, subparts 2 to 13, 16, 17, 20, 21, 23, 25, or 29 for two or more of the components, regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the entire project must be compared to the thresholds specified in items A and B to

determine the need for an EIS. If the project meets or exceeds the thresholds specified in any other subparts as well as those in item A or B, the RGU must be determined as provided in part 4410.0500, subpart 1.

~~D.~~ E. This subpart does not apply to projects for which there is a single mandatory category specified in subparts 2 to 10, 12, 13, ~~15~~, ~~or 17~~, or 22, or part 4410.4300, subparts 2 to 13, 16, 17, 20, ~~21~~, 23, 25, ~~or 29~~, or 34, regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the need for an EIS or an EAW must be determined by comparison of the project to the threshold specified in the applicable subpart, and the RGU must be the governmental unit assigned by that subpart.

Subp. 12. **Hazardous waste.** Items A to C designate the RGU for the type of project listed:

A. For construction or expansion of a hazardous waste disposal facility for 1,000 or more kilograms per month, the PCA shall be the RGU.

B. For the construction or expansion of a hazardous waste disposal facility in a ~~shoreland area, delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, the Mississippi headwaters area~~ water-related land use management district, or in an area characterized by soluble bedrock, the PCA shall be the RGU.

C. For construction or expansion of a hazardous waste processing facility ~~that sells processing services to generators other than the owner and operator of the facility,~~ if the facility is located in a ~~shoreland area, delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, the Mississippi headwaters area~~ water-related land use management district, or in an area characterized by soluble bedrock, the PCA shall be the RGU.

Subp. 13. **Solid waste.** ~~Items A to D designate the RGU for the type of project listed:~~ For the type of projects listed in items A to D, the PCA is the RGU unless the project will be constructed within the seven-county Twin Cities metropolitan area, in which case the Metropolitan Council is the RGU.

A. ~~For~~ Construction of a mixed municipal solid waste disposal facility for 100,000 cubic yards or more of waste fill per year, ~~the PCA or Metropolitan Council shall be the RGU.~~

B. ~~For~~ Construction or expansion of a mixed municipal solid waste disposal facility in a ~~shoreland area, delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, the Mississippi headwaters area~~ water-related land use management district, or in an area characterized by soluble bedrock, ~~the PCA or Metropolitan Council shall be the RGU.~~

C. ~~For~~ Construction or expansion of a mixed municipal solid waste ~~resource~~ energy recovery facility ~~for 500 or incinerator, or the utilization of an existing facility for the combustion of mixed municipal solid waste or refuse-derived fuel, with a capacity of 250~~ or more tons per day of input, ~~the PCA or Metropolitan Council shall be the RGU.~~

D. ~~For~~ Construction or expansion of a mixed municipal solid waste compost facility or a refuse-derived fuel production facility with a capacity of 500 or more tons per day of input.

E. Expansion by 25 percent or more of previous capacity of a mixed municipal solid waste disposal facility for 100,000 cubic yards or more of waste fill per year, ~~the PCA or Metropolitan Council shall be the RGU.~~

Subp. 14. **Residential development.** An EIS is required for residential development if the total number of units that the proposer may ultimately develop on all contiguous land owned by the proposer or for which the proposer has an option to purchase, and that is zoned for residential development or is identified for residential development by an applicable comprehensive plan, equals or exceeds a threshold of this subpart. In counting the total number of ultimate units, the RGU shall include the number of units in any plans of the proposer; for land for which the proposer has not yet prepared plans, the RGU shall use as the number of units the product of the number of acres multiplied by the maximum number of units per acre allowable under the applicable zoning ordinance. If the total project requires review but future phases are uncertain, the RGU may review the ultimate project sequentially in accordance with part 4410.2000, subpart 4.

The RGU may review an initial stage of the project, that may not exceed ten percent of the applicable EIS threshold, by means of the procedures of parts 4410.1200 to 4410.1700 instead of the procedures of parts 4410.2000 to 4410.2800. If the RGU determines that this stage requires preparation of an EIS under part 4410.1700, it may be reviewed through a separate EIS or through an EIS that also covers later stages of the project.

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## Proposed Rules

If a project consists of mixed unattached and attached units, an EIS must be prepared if the sum of the quotient obtained by dividing the number of unattached units by the applicable unattached unit threshold of item A or B, plus the quotient obtained by dividing the number of attached units by the applicable attached unit threshold of item A or B, equals or exceeds one. Items A and B designate the RGU for the type of project listed. If a development consists of both attached and unattached units, each individual unit in a group of attached units must be considered as an unattached unit.

A. The local governmental unit is the RGU for construction of a permanent or potentially permanent residential development of:

(1) 100 or more unattached or 150 or more attached units in an unsewered unincorporated area or 400 unattached units or 600 attached units in a sewerer unincorporated area;

(2) 400 or more unattached units or 600 or more attached units in a third or fourth class city or sewerer unincorporated area that does not meet the conditions of subitem (4);

(3) 600 or more 400 unattached units or 900 or more 600 attached units in a second class city meeting the conditions of subitem (4) if the project is not consistent with the adopted comprehensive plan; or

(4) 800 or more 1,000 unattached units or 1,200 or more 1,500 attached units in a first class city; the local government unit shall be the RGU within the seven-county Twin Cities metropolitan area that has adopted a comprehensive plan under Minnesota Statutes, section 473.859, or in a city not located within the seven-county Twin Cities metropolitan area that has filed with the EQB chair a certification that it has adopted a comprehensive plan containing the following elements:

(i) a land use plan designating the existing and proposed location, intensity, and extent of use of land and water for residential, industrial, agricultural, and other public and private purposes;

(ii) a transportation plan describing, designating, and scheduling the location, extent, function, and capacity of existing and proposed local public and private transportation facilities and services;

(iii) a sewage collection system policy plan describing, designating, and scheduling the areas to be served by the public system, the existing and planned capacities of the public system, and the standards and conditions under which the installation of private sewage treatment systems will be permitted;

(iv) a capital improvements plan for public facilities; and

(v) an implementation plan describing public programs, fiscal devices, and other actions to be undertaken to implement the comprehensive plan, and a description of official controls addressing the matters of zoning, subdivision, private sewage systems, and a schedule for the implementation of the controls. The EQB chair may specify the form to be used for making a certification under this subitem.

B. For construction of a permanent or potentially permanent residential development of 40 or more unattached units or of 60 or more attached units, if the local governmental unit has not adopted state approved shoreland, flood plain, or wild and scenic rivers land use district ordinances, the Mississippi headwaters plan, or the Project Riverbend plan water-related land use management district ordinances or plans, as applicable, and either the project involves riparian frontage; or ten or more acres of the development are within a shoreland, delineated flood plain, or state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area water-related land use management district, the local government unit shall be the RGU. However, this item only applies to shoreland areas, floodplains, and state wild and scenic rivers land use districts if the local governmental unit has received official notice from the Department of Natural Resources that it must adopt applicable land use management district ordinances within a specific period of time.

Subp. 15. **Airport runway projects.** For construction of a paved and lighted airport runway of 5,000 feet of length or greater, the DOT or local government unit shall be the RGU.

Subp. 16. to 20. [Unchanged.]

Subp. 21. **Mixed residential and commercial-industrial projects.** If a project includes both residential and commercial-industrial components, the project must have an EIS prepared if the sum of the quotient obtained by dividing the number of residential units by the applicable residential threshold of subpart 14, plus the quotient obtained by dividing the amount of industrial-commercial gross floor space by the applicable industrial-commercial threshold of subpart 11, equals or exceeds one.

Subp. 22. **Sports or entertainment facilities.** For construction of a new outdoor sports or entertainment facility designed for or expected to accommodate a peak attendance of 20,000 or more persons or a new indoor sports or entertainment facility designed for or expected to accommodate a peak attendance of 30,000 or more persons, or the expansion of an existing facility by these amounts, the local governmental unit is the RGU.

Subp. 23. **Water diversions.** For a diversion of waters of the state to an ultimate location outside the state in an amount equal to or greater than 2,000,000 gallons per day, expressed as a daily average over any 30-day period, the Department of Natural Resources is the RGU.

## Proposed Rules

Subp. 24. Pipelines. For routing of a pipeline subject to the pipeline routing permit process under Minnesota Statutes, section 116I.015, the EQB is the RGU.

### 4410.4600 EXEMPTIONS.

Subpart 1. [Unchanged.]

Subp. 2. **Standard exemptions.** The following projects are standard exemptions:

A. projects for which no governmental decisions are required;

B. projects for which all governmental decisions have been made. However, this exemption does not in any way alter the prohibitions on final governmental decisions to approve a project under part 4410.3100;

C. projects for which, and so long as, a governmental unit has denied a required governmental approval;

D. projects for which a substantial portion of the project has been completed and an EIS would not influence remaining implementation or construction; and

E. projects for which environmental review has already been initiated under the prior rules or for which environmental review is being conducted pursuant to part 4410.3600 or 4410.3700.

Subp. 3. to 10. [Unchanged.]

Subp. 11. **Sewage systems.** Construction of a new wastewater treatment facility ~~or sewer system~~ with a capacity of less than ~~3,000~~ 5,000 gallons per day average wet weather flow or the expansion of an existing wastewater treatment facility by less than ~~that amount~~ 5,000 gallons per day average wet weather flow or the expansion of a sewage collection system by less than 5,000 gallons per day design daily average flow or a sewer line of 1,000 feet or less and eight-inch diameter or less. is exempt.

Subp. 12. to 16. [Unchanged.]

Subp. 17. ~~Stream diversion~~ **Ditch maintenance or repair.** Routine maintenance or repair of a drainage ditch within the limits of its original construction flow capacity, performed within 20 years of construction or major repair, is exempt.

Subp. 18. and 19. [Unchanged.]

Subp. 20. **Utilities.** Utility extensions are exempt as follows:

A. water service mains of 500 feet or less and 1-1/2 inches diameter or less; ~~sewer lines of 500 feet or less and eight-inch diameter or less;~~

B. local electrical service lines;

C. gas service mains of 500 feet or less and one inch diameter or less; and

D. telephone services lines.

Subp. 21. to 26. [Unchanged.]

### 4410.5000 AUTHORITY AND PURPOSE.

Subpart 1. **Bulletin.** To provide early notice of impending projects which may have significant environmental effects, the EQB shall, pursuant to Minnesota Statutes, section 116D.04, subdivision 8, publish a bulletin with the name of "EQB Monitor" containing all notices as specified in part 4410.5200. The EQB chair may prescribe the form and manner in which the governmental units submit any material for publication in the EQB Monitor, and the EQB ~~chairperson~~ chair may withhold publication of any material not submitted according to the form or procedures the EQB chair has prescribed.

Subp. 2. **Purpose.** These rules are intended to provide a procedure for notice to the EQB and to the public of natural resource management and development permit applications, and impending governmental and private projects that may have significant environmental effects. The notice through the early notice procedures is in addition to public notices otherwise required by law, rule, or regulation.

### 4410.6000 PROJECTS REQUIRING AN ASSESSMENT OF EIS PREPARATION COST.

When a private person proposes to undertake a project, and the final determination has been made that an EIS will be prepared by a governmental unit on that project, the proposer shall be assessed for the reasonable costs of preparing and distributing that

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## Proposed Rules

The RGU shall assess the project proposer for its reasonable costs of preparing and distributing an EIS in accord with parts 4410.6100 to 4410.6500.

### 4410.6200 DETERMINING EIS ESTIMATED COST, ~~AND EIS ACTUAL COST~~ , ~~AND PROJECT ESTIMATED COST.~~

Subpart 1. and 2. [Unchanged.]

Subp. 3. [See Repealer.]

### 4410.6300 REVISING EIS ASSESSED COST.

Subpart 1. **Alteration of project scope.** If the proposer substantially alters the scope of the project after the final determination has been made that an EIS will be prepared and the EIS assessed cost has been determined, the proposer shall immediately notify the RGU and the EQB.

If the change will likely result in a net change of greater than five percent in the EIS assessed cost, the proposer and the RGU shall make a new determination of the EIS assessed cost. The determination shall give consideration to costs previously expended or irrevocably obligated, additional information needed to complete the EIS and the adaptation of existing information to the revised project. The RGU shall submit either a revised agreement or a notice that an agreement cannot be reached following the procedures of part 4410.6100, subpart 1, except that such agreement or notice shall be provided to the EQB within 20 days after the proposer notifies the RGU and the EQB of the change in the project. ~~If the changed project results in a revised project estimated cost of \$1,000,000 or less, the proposer shall not be liable for further cash payments to the EQB or to the local governmental unit beyond what has been expended or irrevocably obligated by the RGU at the time it was notified by the proposer of the change in the project.~~

If the proposer decides not to proceed with the proposed project, the proposer shall immediately notify the RGU and the EQB. The RGU shall immediately cease expending and obligating the proposer's funds for the preparation of the EIS.

If cash payments previously made by the proposer exceed the RGU's expenditures or irrevocable obligations at the time of notification, the proposer may apply to the EQB or to the local governmental unit for a refund of the overpayment. The refund shall be paid as expeditiously as possible.

If cash payments previously made by the proposer are less than the RGU's expenditures or irrevocable obligations at the time of notification, the RGU shall notify the proposer and the EQB within ten days after it was notified of the project's withdrawal. Such costs shall be paid by the proposer within 30 days after the RGU notifies the proposer and the EQB.

Subp. 2. [Unchanged.]

### 4410.6400 DISAGREEMENTS REGARDING EIS ASSESSED COST.

Subpart 1. **Notice to EQB.** If the proposer and the RGU disagree about the EIS assessed cost, the proposer and the RGU shall each submit a written statement to the EQB identifying the EIS estimated cost, ~~and the project estimated cost~~ within ten days after the RGU notifies the EQB that an agreement could not be reached. The statements shall include the EIS preparation costs identified in part 4410.6200, subparts 1 and 2 as they pertain to the information to be included in the EIS, a brief explanation of the costs, and a discussion of alternative methods of preparing the EIS and the costs of those alternatives.

Subp. 2. [See Repealer.]

Subp. 3. to 7. [Unchanged.]

**REPEALER.** Minnesota Rules, parts 4410.0200, subparts 66, 72, and 74; 4410.1700, subpart 8; 4410.3100, subpart 3; 4410.6100, subpart 2; 4410.6200, subpart 3; and 4410.6400, subpart 2, are repealed.

## Department of Natural Resources

### Proposed Permanent Rules Relating to Management of Shoreland Areas

#### Notice of Hearing

Please take notice that the Department of Natural Resources is proposing to amend its rules for county and municipal shoreland management. Hearings on the proposed amendments will be held from 1:00 to 4:00 p.m. and 6:00 to 9:00 p.m. at the following places:

October 4      Mankato  
City Hall Council Chambers  
3rd Floor  
202 East Jackson

October 6      Virginia  
Miners Memorial Building  
North Room  
9th Avenue South

October 10      St. Paul  
State Office Building  
Room 200  
100 Constitution Avenue

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## Proposed Rules

October 18      Cass Lake  
Veterans Memorial Building  
Bingo Palace Road  
3½ miles NW of Cass lake

October 20      Two Harbors  
High School Auditorium  
405 4th Avenue

October 24      Brainerd  
National Guard Armory  
423 Laurel

October 26      Fergus Falls  
Senior High Lecture Hall  
600 E. Mount Faith Avenue

October 28      St. Cloud  
City Hall Council Chambers  
1st Floor  
400 2nd Street S.

October 31      Marshall  
Marshall Inn  
1500 E. College Dr.

The rules provide minimum standards for county, city, and township zoning ordinances for the shores of lakes and wetlands and rivers and streams. This is the first time the rules have been amended in the approximately fifteen years they have been in effect. The proposed changes reflect the experience of local governments and DNR with the rules over these years.

The proposed changes will require local governments to amend their shoreland zoning ordinances which in turn may affect developers, businesses, and residents residing, owning or operating on land within 1000 feet of lakes and wetlands and within 300 feet of or within the floodplain of rivers and streams. There are additions and changes concerning shoreland classifications, land uses, dimensional provisions, vegetative cutting, grading and filling, timber management, agricultural practices, sewage disposal systems, subdivisions, planned unit developments, and administration.

The *State Register* containing this notice shows the rules with all the changes being proposed. Those needing a copy of the rules showing the proposed changes can get one free by writing DNR, 500 Lafayette Road, St. Paul, Minnesota 55155-4032, Attention Shoreland Rules.

Interested persons may attend the hearing, and will have an opportunity to present their views and evidence orally, or in writing. Written material may also be mailed to the administrative law judge at the address given below. Written material may be submitted and recorded in the hearing record for five working days after the hearings end, or the administrative law judge may enlarge that comment period to not more than 20 calendar days. Comments received during the comment period will be available for review at the Office of Administrative Hearings. The agency and interested persons may respond to the comments within three business days after the comment period ends. No additional evidence may be submitted during the three-day period.

Be aware that any of the changes proposed may be modified or withdrawn as a result of the hearing.

The agency's authority for the rules is *Minnesota Statutes* section 105.485.

Notice: 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.

Notice is hereby given that a statement of need and reasonableness is now available for review at the agency and at the Office of Administrative Hearings. This 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 or obtained from the agency.

*Minnesota Statutes*, chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11 as 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 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, including traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St.

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## Proposed Rules

Paul, Minnesota 55155, telephone (612) 296-5615.

The rule hearing procedure is governed by *Minnesota Statutes* sections 14.14 to 14.20 and by *Minnesota Rules* parts 1400.0200 to 1400.1200. Questions about procedure may be directed to Administrative Law Judge Phyllis Reha, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7611.

The agency estimates that the 85 counties and approximately 120 cities which currently have shoreland ordinances will incur total costs in the neighborhood of \$3,450,000 to amend their ordinances to comply with the proposed rule changes. Costs per individual unit of government could vary from \$5,000 to \$50,000, depending on the sophistication of the existing local program and the acreage and development of shoreland areas in the jurisdiction. A more complete fiscal note is provided in the statement of need and reasonableness.

Since the rules relate to zoning and zoning affects everyone in shoreland areas, small businesses operating in shoreland areas will be affected by the rule changes. An analysis of possible small business impacts is included in the statement of need and reasonableness.

The agency believes that the rules will not have a direct and substantial adverse effect on agricultural land. An analysis is included in the statement of need and reasonableness.

### Rules as Proposed

#### 6120.2500 DEFINITIONS.

Subpart 1. **Scope of terms; shall mandatory; distances.** For the purpose of these parts 6120.2500 to 6120.3900, certain terms or words used herein shall be interpreted as follows: the word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be measured horizontally.

Subp. 1a. Accessory structure or facility. "Accessory structure" or "facility" means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

Subp. 1b. Bluff. "Bluff" means a topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

A. part or all of the feature is located in a shoreland area;

B. the slope rises at least 25 feet above the ordinary high water level of the waterbody;

C. the grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and

D. the slope must drain toward the waterbody.

An area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff.

Subp. 1c. Bluff impact zone. "Bluff impact zone" means a bluff and land located within 20 feet from the top of a bluff.

Subp. 2. **Boathouse.** "Boathouse" means a structure designed and used solely for the storage of boats or boating equipment.

Subp. 3. **Building line.** "Building line" means that a line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

Subp. 3a. Commercial use. "Commercial use" means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

Subp. 3b. Commissioner. "Commissioner" means the commissioner of the Department of Natural Resources.

Subp. 4. [See Repealer.]

Subp. 5. **Conditional use.** "Conditional use" means a use of shorelands which is permitted within a zoning district only when allowed by the municipality after a public hearing, if certain conditions are met which eliminate or minimize the incompatibility with other permitted uses of the district as this term is defined in *Minnesota Statutes*, chapter 394.

Subp. 6. [See Repealer.]

Subp. 6a. Deck. "Deck" means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

Subp. 6b. Duplex, triplex, and quad. "Duplex," triplex," and "quad" means a dwelling structure on a single lot, having two, three, and four units respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

Subp. 6c. Dwelling site. "Dwelling site" means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

**Subp. 6d. Dwelling unit.** “Dwelling unit” means any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

**Subp. 6e. Extractive use.** “Extractive use” means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51.

**Subp. 6f. Forest land conversion.** “Forest land conversion” means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

**Subp. 6g. Guest cottage.** “Guest cottage” means a structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

**Subp. 7. Hardship.** “Hardship” means the property in question cannot be put to a reasonable use under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his property, not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under terms of the official controls same as that term is defined in Minnesota Statutes, chapter 394.

**Subp. 7a. Height of building.** “Height of building” means the vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

**Subp. 7b. Industrial use.** “Industrial use” means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

**Subp. 7c. Intensive vegetation clearing.** “Intensive vegetation clearing” means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

**Subp. 8. Lot.** “Lot” means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof. For the purposes of these parts, a lot shall be considered to be an individual building site which shall be occupied by no more than one principal structure equipped with sanitary facilities.

**Subp. 9. Municipality Lot width.** “Municipality” means any city “Lot width” means the shortest distance between lot lines measured at the midpoint of the building line.

**Subp. 10. Nonconforming use Nonconformity.** “Nonconforming use” means any use of land established before the effective date of a municipal ordinance which does not conform to the use restrictions of a particular zoning district. This should not be confused with substandard dimensions of a conforming use “Nonconformity” means the same as that term is defined or described in Minnesota Statutes, chapter 394.

**Subp. 11. Ordinary high water mark level.** “Ordinary high water mark level” means a mark the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

**Subp. 12. Planned unit development.** “Planned unit development” means a type of development which may incorporate a variety of land uses planned and developed as a unit. The planned unit development is distinguished from the traditional subdivision process of development in that zoning standards such as density, setbacks, height limits, and minimum lot sizes may be altered by negotiation and agreement between the developer, the municipality, and the commissioner characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

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## Proposed Rules

Subp. 13. **Public waters.** "Public waters" means any waters of the state which serve a beneficial public purpose, as defined in Minnesota Statutes 1974, section 105.37, subdivision 6 as defined in Minnesota Statutes, section 105.37, subdivisions 14 and 15. However, no lake, pond, or flowage of less than ten acres in size and no river or stream having a total drainage area less than two square miles in municipalities and 25 acres in size in unincorporated areas need be regulated by the municipality for the purposes of these parts 6120.2500 to 6120.3900. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the commissioner shall be exempt may, at the discretion of the local government, be exempted from the provisions of these parts 6120.2500 to 6120.3900.

The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the commissioner. The official size of lakes, ponds, or flowages shall be the areas listed in the Division of Waters, Soils and Minerals Bulletin 25, An Inventory of Minnesota Lakes, or in the event that lakes, ponds, or flowages are not listed therein, official determination of size and physical limits shall be made by the commissioner in cooperation with municipalities.

Subp. 13a. **Semipublic use.** "Semipublic use" means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Subp. 13b. **Sensitive resource management.** "Sensitive resource management" means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Subp. 14. **Setback.** "Setback" means the minimum horizontal distance between a structure or sanitary facility, sewage treatment system, or other facility and the an ordinary high water mark or between a structure or sanitary facility and level, sewage treatment system, top of a bluff, road, highway, or property line, or other facility.

Subp. 14a. **Sewage treatment system.** "Sewage treatment system" means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in chapter 7080.

Subp. 14b. **Sewer system.** "Sewer system" means pipelines or conduits, pumping stations, and force main, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Subp. 14c. **Shore impact zone.** "Shore impact zone" means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

Subp. 15. **Shoreland.** "Shoreland" means land located within the following distances from public water: 1,000 feet from the ordinary high water mark level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

Subp. 15a. **Significant historic site.** "Significant historic site" means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Subp. 15b. **Steep slope.** "Steep slope" means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

Subp. 16. **Structure.** "Structure" means any building or appurtenance thereto, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, or gas lines, including towers, poles, and other supporting appurtenances facilities.

Subp. 17. **Subdivision.** "Subdivision" means improved or unimproved land or lands which are that is divided for the purpose of sale, rent, or lease, or divided successively within a five-year period for the purpose of sale or lease, into three or more lots or parcels of less than five acres each, contiguous in area and which are under common ownership or control including planned unit development.

Subp. 18. [See Repealer.]

Subp. 18a. **Surface water oriented commercial use.** "Surface water oriented commercial use" means the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

Subp. 18b. Toe of the bluff. "Toe of the bluff" means the lower point of a 50-foot segment with an average slope exceeding 18 percent.

Subp. 18c. Top of the bluff. "Top of the bluff" means the higher point of a 50-foot segment with an average slope exceeding 18 percent.

Subp. 19. Variance. "Variance" means any modification or variation of official controls where it is determined that, because of hardships, strict enforcement of the official controls is impractical the same as that term is defined or described in Minnesota Statutes, chapter 394.

Subp. 20. Water-oriented accessory structure or facility. "Water-oriented accessory structure or facility" means a small, aboveground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

Subp. 21. Wetland. "Wetland" means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition), which is hereby incorporated by reference, is available through the Minitex interlibrary loan system, and is not subject to frequent change.

#### **6120.2600 POLICY.**

The uncontrolled use of shorelands adversely affects the public health, safety, and general welfare by contributing to pollution of public waters and by impairing the local tax base. In accordance with the authority granted in the Laws of Minnesota 1973, chapter 379, and in furtherance of the policies declared in Minnesota Statutes 1974, chapters 105, 115, 116, 394, 396, and 462, the commissioner of natural resources, hereinafter referred to as the commissioner, does hereby provide provides the municipalities of the state with following minimum standards and criteria for the subdivision, use, and development of the shorelands of public waters located in municipalities in order. The standards and criteria are intended to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise utilization use of water and related land resources of the state.

#### **6120.2800 SCOPE.**

Subpart 1. Responsibilities and authorities. These minimum standards and criteria apply to those shorelands of public waters of the state which are located in municipalities subject to local government land use controls. They are intended to be incorporated into local government shoreland management controls. Each local government is responsible for administration and enforcement of its shoreland management controls adopted in compliance with these standards and criteria. Nothing in these standards and criteria shall be construed as prohibiting or discouraging a local government from adopting and enforcing controls that are more restrictive.

Subp. 2. Adoption schedule. Counties, and those cities designated by the commissioner in consultation with the appropriate county, must adopt or amend land use controls to bring them into substantial compliance with these standards and criteria within two years of being notified by the commissioner.

Subp. 3. Implementation flexibility. Local governments may, under special circumstances and with the commissioner's approval, adopt shoreland management controls that are not in strict conformity with these minimum standards and criteria, provided the purposes of Minnesota Statutes, section 105.485, are satisfied.

A. Special circumstances may include, but are not limited to, the following situations:

- (1) large cities, particularly those of the first class, where shorelands have been developed with an assortment of urban land uses for many years and much of the development does not meet the standards in parts 6120.2500 to 6120.3900;
- (2) small- to medium-sized cities with central business districts located within shorelands of lakes;
- (3) cities whose only shorelands are along rivers classified as tributary;
- (4) small cities that have not had, and do not anticipate, much development activity within shorelands;
- (5) counties or portions of counties with topography or vegetation characteristics that would make use of particular minimum state standards impractical;

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## Proposed Rules

(6) shorelands that are managed under other water and related land resource management programs authorized by state or federal legislation with goals compatible with Minnesota Statutes, section 105.485, and parts 6120.2500 to 6120.3900; or

(7) individual lakes or systems of lakes that are being managed under standards developed specifically for these water resources after a comprehensive study and planning effort.

B. Alternative management standards may use the following concepts and approaches, or others:

(1) expanded or different public waters classification systems;

(2) designation of areas where land use districts and associated standards are more restrictive than these standards and criteria as trade-offs for other areas where they are less restrictive;

(3) standards and other management approaches that are developed for specific water resources after a comprehensive evaluation and planning effort;

(4) standards developed to take into account commonly occurring topographic and vegetation patterns that would make use of these standards and criteria impractical; or

(5) other types of management or acquisition programs such as stormwater management and public land acquisition programs that reduce the need for use of specific standards in parts 6120.2500 to 6120.3900.

C. Local governments must request consideration of an alternative approach under this subpart and must provide written justification and supporting information, maps, and documents, as appropriate, to justify the request to the commissioner, including the following:

(1) existing land use plans and controls for shorelands of each public water;

(2) for the shorelands of each public water, the number, average size, and percent of shoreline occupied by undeveloped lots of record and land in public ownership;

(3) characteristics of existing development, including types, densities, heights, colors, and presence or absence of screening vegetation or topography;

(4) presence or absence of public sewer and stormwater management practices or facilities; and

(5) explanations of how deviations from state standards are justified.

### 6120.3000 SHORELAND MANAGEMENT CLASSIFICATION SYSTEM.

Subpart 1. **Criteria.** The commissioner shall classify all public waters in municipalities in accordance with the provisions of parts 6120.0700 to 6120.0900 and the following criteria:

A. Those waters whose shores are presently characterized by industrial, commercial, or high density residential development shall be classified as general development- size and shape;

B. Those waters whose shores are presently characterized by medium density residential development with or without limited service-oriented commercial development shall be classified as recreational development- amount and type of existing development;

C. Those waters whose shores are presently characterized by low density, single family residential development shall be classified as natural environment- road and service center accessibility;

D. Those waters whose shores are not yet densely developed, so that the future character of the waters is a matter of choice, shall be classified as either natural environment or recreational development, depending on:

(1) existing natural characteristics of the waters and shorelands;

(2) the ability of the waters and adjacent shorelands, based on size and crowding potential, to accept, without degradation, medium density shoreland development;

(3) state, regional, county, and municipal plans; and

(4) existing land use restrictions- existing natural characteristics of the waters and shorelands;

E. state, regional, and local plans and management programs;

F. existing land use restrictions; and

G. presence of significant historic sites.

Subp. 1a. **Classes.** The classes of public waters are natural environment lakes, recreational development lakes, general development lakes, remote river segments, forested river segments, transition river segments, agricultural river segments, urban river segments, and tributary river segments. All of the river classes except tributary consist of watercourses that have been identified

as being recreationally significant on a statewide basis. The tributary class consists of all other watercourses identified in the protected waters inventory. General descriptions of each class follow:

A. Natural environment lakes are generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

B. Recreational development lakes are generally medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences and recreationally-oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.

C. General development lakes are generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and, except for the very large lakes, are heavily developed around the shore. Second and third tiers of development are fairly common. The larger examples in this class can accommodate additional development and use.

D. Remote river segments are primarily located in roadless, forested, sparsely-populated areas of the northeastern part of the state. Common land uses include multiple-use forestry, some recreation facilities, and occasional seasonal or year-round residential. Low intensity recreational uses of these river segments and adjacent lands are common. This class has limited potential for additional development and recreational use due to land suitability and road access constraints.

E. Forested river segments are located in forested, sparsely to moderately populated areas with some roads in the north-central part of the state. Predominant land uses include multiple-use forestry, some recreation facilities, seasonal residential, and, within commuting distances of several cities, some year-round residential. Low-intensity recreational uses of these rivers and adjacent lands are common. This class has substantial potential for additional development and recreational use.

F. Transition river segments are generally either located within the Minnesota and Mississippi river valleys, or within the middle reaches of several rivers in all regions except the north-central and northeast. Common land uses include forested within riparian strips and mixtures of cultivated, pasture, and forested beyond. Some seasonal and year-round residential development exists, particularly within commuting distance of major cities. The types and intensities of recreational uses within this class vary widely.

G. Agricultural river segments are located in well-roaded, intensively cultivated areas of the western and southern regions of the state. Cultivated crops are the predominant land use, with some pasture and occasional feedlots, small municipalities, and small forested areas. Residential development is not common, but some year-round residential use is occurring within commuting distances of major cities. Some intensive recreational use occurs on these river segments in particular areas, but overall recreational use of these waters and adjacent lands is low. Although potential exists for additional development and recreation, water quality constraints and competing land uses, particularly agriculture, will inhibit expansions.

H. Urban river segments are located within or adjacent to major cities throughout the state. A variety of residential and other urban land uses exists within these segments. Recreational uses of these segments and adjacent lands are common, but vary widely in types and intensities. These segments have potential for additional development, for redevelopment, and for additional recreational use, although recreational use on some of these segments competes with commercial river traffic.

I. Tributary river segments consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes in items D to H. These segments have a wide variety of existing land and recreational use characteristics. The segments have considerable potential for additional development and recreational use, particularly those located near roads and cities.

Subp. 2. **Supporting data.** Supporting data for the shoreland management ~~classification~~ classifications is supplied by the records and files of the Department of Natural Resources, including maps, lists, and other products of the Protected Waters Inventory; data and publications of the Shoreland Update Project; the Minnesota Department of Natural Resources Statewide Outstanding Rivers Inventory; Bulletin No. 25 (1968); and Supplementary Report No. 1 - Shoreland Management Classification System for Protected Waters (1976) of the Division of Waters, Soils and Minerals (1968); other supporting data is provided in Minnesota's Lakeshore, part 2, Statistical Summary, Department of Geography, University of Minnesota; and additional supporting data may be supplied,

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## Proposed Rules

as needed, by the commissioner. These publications are incorporated by reference, are available through the Minitex interlibrary loan system, and are not subject to frequent change.

Subp. 3. **Classification procedures.** Public waters shall be classified by the commissioner. The commissioner shall document each classification with appropriate supporting data. ~~He shall submit~~ A preliminary list of classified public waters shall be submitted to each affected ~~municipality local government~~. Each affected ~~municipality local government~~ shall be given an opportunity to request a change in the proposed classification. If a ~~municipality local government~~ feels such a change is needed, a written request with supporting data may be submitted to the commissioner for consideration. If a ~~municipality local government~~ requests a change in a proposed shoreland management classification and the public water is located partially within the jurisdiction of another governmental unit, the commissioner shall review the recommendations of the other governmental ~~unit(s)~~ prior to units before making a final decision on the proposed change.

Subp. 4. **Reclassification.** The commissioner may, as the need arises, reclassify any public water. Also, any ~~municipality local government~~ may at any time submit a resolution and supporting data requesting a change in any shoreland management classification of waters within its jurisdiction to the commissioner for consideration.

Subp. 5. **Modification and expansion of system.** The commissioner may, as the need arises, modify or expand the shoreland classification system to provide specialized shoreland management ~~rules~~ standards based upon unique characteristics and capabilities of any public ~~water(s)~~ waters.

### 6120.3100 LAND USE DISTRICTS.

The development of shorelands of public waters ~~shall~~ must be controlled by means of land use zoning districts which are designated to be compatible with the classes of public waters ~~set forth~~ in part 6120.3000. Land use zoning districts ~~shall~~ may be established to provide for:

A. the management of areas unsuitable for development due to wet soils, steep slopes, flooding, inadequate drainage, severe erosion potential, presence of significant historic sites, or any other feature likely to be harmful to the health, safety, or welfare of the residents of the community;

B. the reservation of areas suitable for residential development from encroachment by commercial and industrial uses;

C. the centralization of service facilities for residential areas and enhancement of economic growth for those areas suitable for limited commercial development; ~~and~~

D. the management of areas ~~where use may be directed toward~~ for commercial or industrial uses, ~~rather than strictly residential uses~~, which, by their nature, require location in shoreland areas;

E. the protection of valuable agricultural lands from conversion to other uses; and

F. the preservation and enhancement of the quality of water-based recreational use of public waters including provisions for public accesses.

### 6120.3200 CRITERIA FOR LAND USE ZONING DISTRICT DESIGNATION.

Subpart 1. Criteria. The land use zoning districts established by ~~municipalities~~ shall local governments must be based on considerations of:

A. preservation of natural areas;

B. present ownership and development of shoreland areas;

C. shoreland soil types and their engineering capabilities;

D. topographic characteristics;

E. vegetative cover; ~~municipal~~

F. in-water physical characteristics, values, and constraints;

G. recreational use of the surface water;

H. road and service center accessibility;

I. socioeconomic development needs and plans as they involve water and related land resources;

J. the land requirements of industry which, by its nature, requires location in shoreland areas; and

K. the necessity to preserve and restore certain areas having significant historical or ecological value.

During the designation of land use zoning districts, the local government must, in conjunction with the Department of Natural Resources, consider the need for public accesses to public waters.

Subp. 2. Designation of zoning districts. Local governments with adopted land use zoning districts in effect on the date of adoption of parts 6120.2500 to 6120.3900 may continue to use the districts until revisions are proposed. When amendments to zoning districts on lakes are considered, local governments, at least for all the shoreland within the community of the public water involved and preferably for all shoreland areas within the community, must revise existing zoning district and use provisions to make them substantially compatible with the framework in subpart 4. On a river, zoning districts and use provisions for all shoreland on both sides within the same class in the community must be revised to make them substantially compatible with the framework in subpart 5. If the same river class is contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles up and down stream or to the class boundary, if closer, need be evaluated. When an interpretation question arises about whether a specific land use fits within a category in subpart 4 or 5, the question must be resolved through procedures in local government official controls and state statutes.

Subp. 3. Land use district descriptions. Land use district descriptions are as follows:

A. A special protection district is intended to be used for two basic purposes. The first purpose is to limit and properly manage development in areas that are generally unsuitable for development or uses due to flooding, erosion, limiting soil conditions, steep slopes, or other major physical constraints. A second purpose is to manage and preserve areas with special historical, natural, or biological characteristics.

B. A residential district is primarily intended to allow low to medium density seasonal and year-round residential uses on lands suitable for such uses. It is also intended to prevent establishment of various commercial, industrial, and other uses in these areas that cause conflicts or problems for residential uses. Some nonresidential uses with minimal impacts on residential uses are allowed if properly managed under conditional use procedures.

C. A high density residential district is intended for use on lands with heterogeneous mixes of soils, vegetation, and topography that are not well suited to residential development using standard, lot-block subdivisions. This approach enables such areas to be developed, often even with higher than lot-block densities, while also avoiding and preserving unsuitable terrain and soils. Other compatible uses such as residential planned unit development, surface water oriented commercial, multiple unit single-family, parks, historic sites, and semipublic, are also allowed, primarily as conditional uses.

D. A water oriented commercial district is intended to be used only to provide for existing or future commercial uses adjacent to water resources that are functionally dependent on such close proximity.

E. A general use district is intended to be used only for lands already developed or suitable for development with concentrated urban, particularly commercial, land uses. It should not generally be used on natural environment lakes or remote river classes. Several other intensive urban uses such as industrial and commercial planned unit development are allowed in this district if handled as conditional uses.

Subp. 4. Shoreland classifications and uses; lakes. For the lake classes, districts, and uses in this subpart, P = permitted uses, C = conditional uses, and N = prohibited uses.

A. Lake classes in special protection districts.

<u>Uses</u>	<u>General development</u>	<u>Recreational development</u>	<u>Natural environment</u>
<u>Forest management</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Sensitive resource management</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Agricultural: cropland and pasture</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Agricultural feedlots</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Parks and historic sites</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Extractive use</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Residential</u>	<u>C</u>	<u>C</u>	<u>C</u>

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# Proposed Rules

## B. Lake classes in residential districts.

<u>Uses</u>	<u>General development</u>	<u>Recreational development</u>	<u>Natural environment</u>
<u>Single family (seasonal and year-round)</u>	P	P	P
<u>Semipublic</u>	C	C	C
<u>Parks and historic sites</u>	C	C	C
<u>Extractive use</u>	C	C	C
<u>Duplex, triplex, quad</u>	P	P	C
<u>Forest management</u>	P/C	P/C	P/C

## C. Lake classes in high density residential districts.

<u>Uses</u>	<u>General development</u>	<u>Recreational development</u>	<u>Natural environment</u>
<u>Residential planned unit developments</u>	C	C	C
<u>Single family</u>	P	P	P
<u>*Surface water oriented commercial</u>	C	C	C
<u>Semipublic</u>	C	C	C
<u>Parks and historic sites</u>	C	C	C
<u>Duplex, triplex, quad</u>	P	P	P
<u>Forest management</u>	P/C	P/C	P/C

## D. Lake classes in water oriented commercial districts.

<u>Uses</u>	<u>General development</u>	<u>Recreational development</u>	<u>Natural environment</u>
<u>Surface water oriented commercial</u>	P	P	C
<u>**Commercial planned unit development</u>	C	C	C
<u>Public, semipublic</u>	C	C	C
<u>Parks and historic sites</u>	C	C	C
<u>Forest management</u>	P/C	P/C	P/C

## E. Lake classes in general use districts.

<u>Uses</u>	<u>General development</u>	<u>Recreational development</u>	<u>Natural environment</u>
<u>Commercial</u>	P	P	C
<u>**Commercial planned unit development</u>	C	C	C
<u>Industrial</u>	C	C	N
<u>Public, semipublic</u>	P	P	C
<u>Extractive</u>	C	C	C
<u>Parks and historic sites</u>	C	C	C
<u>Forest management</u>	P/C	P/C	P/C

\*As accessory to a residential planned unit development

\*\*For limited expansion of a commercial planned unit development

Subp. 5. Shoreland classifications and uses; rivers. For the river classes, districts, and uses in this subpart, P = permitted uses, C = conditional uses, and N = prohibited uses.

A. River classes in special protection districts.

<u>Uses</u>	<u>Re- mote</u>	<u>For- ested</u>	<u>Trans- ition</u>	<u>Agri- cultural</u>	<u>Urban</u>	<u>Tribu- tary</u>
<u>Forest management</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Sensitive resource management</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Agricultural: cropland and pasture</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Agricultural feedlots</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Parks and historic sites</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Extractive use</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Residential</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>

B. River classes in residential districts.

<u>Uses</u>	<u>Re- mote</u>	<u>For- ested</u>	<u>Trans- ition</u>	<u>Agri- cultural</u>	<u>Urban</u>	<u>Tribu- tary</u>
<u>Single family (seasonal and year-round)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Semipublic</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>
<u>Parks and historic sites</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>
<u>Extractive use</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Duplex, triplex, quad</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>C</u>
<u>Forest management</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>

C. River classes in high density residential districts.

<u>Uses</u>	<u>Re- mote</u>	<u>For- ested</u>	<u>Trans- ition</u>	<u>Agri- cultural</u>	<u>Urban</u>	<u>Tribu- tary</u>
<u>Residential planned unit developments</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Single family</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>*Surface water oriented commercial</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Semipublic</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Parks and historic sites</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Duplex, triplex, quad</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Forest management</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>

D. River classes in water oriented commercial districts.

<u>Uses</u>	<u>Re- mote</u>	<u>For- ested</u>	<u>Trans- ition</u>	<u>Agri- cultural</u>	<u>Urban</u>	<u>Tribu- tary</u>
<u>Surface water oriented commercial</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>**Commercial planned unit development</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Public, semipublic</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Parks and historic sites</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Forest management</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>

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# Proposed Rules

## E. River classes in general use districts.

Uses	Re- mote	For- ested	Trans- ition	Agri- cultural	Urban	Tribu- tary
Commercial	C	C	C	C	P	C
**Commercial planned unit development	C	C	C	C	C	C
Industrial	N	C	N	N	C	C
Public, semipublic	C	C	C	C	P	C
Extractive	C	C	C	C	C	C
Parks and historic sites	C	C	C	C	C	C
Forest management	P/C	P/C	P/C	P/C	P/C	P/C

\*As accessory to a residential planned unit development

\*\*For limited expansion of a commercial planned unit development

### 6120.3300 ZONING PROVISIONS.

Subpart 1. **Purpose.** In order to reduce To manage the effects of overeroding shoreland and water surface crowding, to prevent pollution of surface and ground waters of the state, to provide ample space on lots for sanitary facilities sewage treatment systems, to minimize flood damages, to maintain property values, to maintain historic values of significant historic sites, and to maintain natural characteristics of shorelands and adjacent water areas, municipal shoreland ordinances shall control controls must regulate lot sizes, placement of structures on lots, and alterations of shoreland areas.

Subp. 2. **Residential lot size.** All single, duplex, triplex, and quad residential lots intended as residential building sites platted or created by metes and bounds description created after the date of enactment of the municipal local shoreland ordinance shall conform to controls must meet or exceed the following dimensions presented in subparts 2a and 2b, and the following:

A. For natural environment waters, lots not served by public sewer shall be at least 80,000 square feet (approximately two acres) in area and at least 200 feet in width at the building line and at the ordinary high water mark (for lots abutting a public water). Lots served by public sewer and which abut a public water shall be at least 40,000 square feet (approximately one acre) in area and at least 125 feet in width at the building line and at the ordinary high water mark. All other lots served by a public sewer shall be at least 20,000 square feet (approximately one-half acre) in area and at least 125 feet in width at the building line. Lots must not be occupied by any more dwelling units than indicated in subparts 2a and 2b. Residential subdivisions with dwelling unit densities exceeding those in the tables in subparts 2a and 2b can only be allowed if designed and approved as residential planned unit developments under part 6120.3800. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer dimensions can only be used if publicly owned sewer system service is available to the property.

B. For recreational development waters, lots not served by public sewer shall be at least 40,000 square feet (approximately one acre) in area and at least 150 feet in width at the building line and at the ordinary high water mark (for lots abutting a public water). Lots served by public sewer and which abut a public water shall be at least 20,000 square feet (approximately one-half acre) in area and at least 75 feet in width at the building line and at the ordinary high water mark. All other lots served by a public sewer shall be at least 15,000 square feet in area and at least 75 feet in width at the building line. On natural environment lakes, subdivisions of duplexes, triplexes, and quads must also meet the following standards:

- (1) Each building must be set back at least 200 feet from the ordinary high water level.
- (2) Each building must have common sewage treatment and water systems that serve all dwelling units in the building.
- (3) Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building.
- (4) No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.

C. For general development waters, lots not served by a public sewer shall be at least 20,000 square feet (approximately one-half acre) in area and at least 100 feet in width at the building line and at the ordinary high water mark (for lots abutting a public water). Lots served by a public sewer and which abut a public water, shall be at least 15,000 square feet in area and at least 75 feet in width at the building line and at the ordinary high water mark. All other lots served by a public sewer shall be at least 10,000 square feet in area and at least 75 feet in width at the building line. One guest cottage may be allowed in local controls on lots meeting or exceeding the duplex dimensions presented in subparts 2a and 2b if the controls also require all of the following standards to be met:

(1) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit.

(2) A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height.

(3) A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer leaf-on conditions.

D. Lots of record in the office of the county register of deeds recorder on the date of enactment of the municipal local shoreland ordinance which controls that do not meet the requirements of items A to D E may be allowed as building sites without variances from lot size requirements provided such the use is permitted in the zoning district, the lot is has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sanitary sewage treatment and dimensional setback requirements of the shoreland ordinance controls are complied with insofar as practicable met. Each municipal ordinance Necessary variances from setback requirements must be obtained before any use, sewage treatment system, or building permits are issued for the lots. In evaluating all the variances, boards of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lots and shall deny the variances if adequate facilities cannot be provided. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of items A to E, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of items A to E as much as possible. Local shoreland controls may, consistent with these standards and criteria, set a minimum size for substandard nonconforming lots or impose their restrictions on the their development of substandard lots, including the prohibition of development until the substandard lot(s) are served by public sewer and water.

E. Exceptions to the provisions of items A to D may be permitted for planned unit developments pursuant to part 6120.3800. If allowed by local governments, lots intended as controlled accesses to public waters or recreation areas for use by owners of nonriparian lots within subdivisions must meet or exceed the following standards:

(1) They must meet the width and size for residential lots, and be suitable for the intended uses of controlled access lots. If docking, mooring, or over-water storage of watercraft is to be allowed at a controlled access lot, then the width of the lot must be increased by the percent of the requirements for riparian residential lots for each watercraft provided for by covenant beyond six, consistent with the following table:

**CONTROLLED ACCESS LOT FRONTAGE REQUIREMENTS**

<u>Ratio of lake size to shore length (acres/mile)</u>	<u>Required increase in frontage (percent)</u>
<u>Less than 100</u>	<u>25</u>
<u>101-200</u>	<u>20</u>
<u>201-300</u>	<u>15</u>
<u>301-400</u>	<u>10</u>
<u>Greater than 400</u>	<u>5</u>

(2) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.

(3) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

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# Proposed Rules

Subp. 2a. Lot area and width standards for single, duplex, triplex, and quad residential development; lake classes. The lot area and width standards for single, duplex, triplex, and quad residential developments for the lake classes are:

A. Natural Environment, no sewer:

Lot area (square feet)

	<u>Riparian lots</u>	<u>Nonriparian lots</u>
<u>Single</u>	<u>80,000*</u>	<u>80,000*</u>
<u>Duplex</u>	<u>120,000</u>	<u>160,000</u>
<u>Triplex</u>	<u>160,000</u>	<u>240,000</u>
<u>Quad</u>	<u>200,000</u>	<u>320,000</u>

Lot width (feet)

<u>Single</u>	<u>200*</u>	<u>200*</u>
<u>Duplex</u>	<u>300</u>	<u>400</u>
<u>Triplex</u>	<u>400</u>	<u>600</u>
<u>Quad</u>	<u>500</u>	<u>800</u>

B. Recreational Development, no sewer:

Lot area (square feet)

	<u>Riparian lots</u>	<u>Nonriparian lots</u>
<u>Single</u>	<u>40,000*</u>	<u>40,000*</u>
<u>Duplex</u>	<u>80,000</u>	<u>80,000</u>
<u>Triplex</u>	<u>120,000</u>	<u>120,000</u>
<u>Quad</u>	<u>160,000</u>	<u>160,000</u>

Lot width (feet)

<u>Single</u>	<u>150*</u>	<u>150*</u>
<u>Duplex</u>	<u>225</u>	<u>265</u>
<u>Triplex</u>	<u>300</u>	<u>375</u>
<u>Quad</u>	<u>375</u>	<u>490</u>

C. General Development, no sewer:

Lot area (square feet)

	<u>Riparian lots</u>	<u>Nonriparian lots</u>
<u>Single</u>	<u>20,000*</u>	<u>40,000</u>
<u>Duplex</u>	<u>40,000</u>	<u>80,000</u>
<u>Triplex</u>	<u>60,000</u>	<u>120,000</u>
<u>Quad</u>	<u>80,000</u>	<u>160,000</u>

Lot width (feet)

<u>Single</u>	<u>100*</u>	<u>150</u>
<u>Duplex</u>	<u>180</u>	<u>265</u>
<u>Triplex</u>	<u>260</u>	<u>375</u>
<u>Quad</u>	<u>340</u>	<u>490</u>

D. Natural Environment, sewer:

Lot area (square feet)

	<u>Riparian lots</u>	<u>Nonriparian lots</u>
<u>Single</u>	<u>40,000*</u>	<u>20,000*</u>
<u>Duplex</u>	<u>70,000</u>	<u>35,000</u>
<u>Triplex</u>	<u>100,000</u>	<u>52,000</u>
<u>Quad</u>	<u>130,000</u>	<u>65,000</u>

## Proposed Rules

Lot width (feet)

<u>Single</u>	<u>125</u>	<u>125*</u>
<u>Duplex</u>	<u>225</u>	<u>220</u>
<u>Triplex</u>	<u>325</u>	<u>315</u>
<u>Quad</u>	<u>425</u>	<u>410</u>

E. Recreational Development, sewer:

Lot area (square feet)

	<u>Riparian</u> <u>lots</u>	<u>Nonriparian</u> <u>lots</u>
<u>Single</u>	<u>20,000*</u>	<u>15,000*</u>
<u>Duplex</u>	<u>35,000</u>	<u>26,000</u>
<u>Triplex</u>	<u>50,000</u>	<u>38,000</u>
<u>Quad</u>	<u>65,000</u>	<u>49,000</u>

Lot width (feet)

<u>Single</u>	<u>75*</u>	<u>75*</u>
<u>Duplex</u>	<u>135</u>	<u>135</u>
<u>Triplex</u>	<u>195</u>	<u>190</u>
<u>Quad</u>	<u>255</u>	<u>245</u>

F. General Development, sewer:

Lot area (square feet)

	<u>Riparian</u> <u>lots</u>	<u>Nonriparian</u> <u>lots</u>
<u>Single</u>	<u>15,000*</u>	<u>10,000*</u>
<u>Duplex</u>	<u>26,000</u>	<u>17,500</u>
<u>Triplex</u>	<u>38,000</u>	<u>25,000</u>
<u>Quad</u>	<u>49,000</u>	<u>32,500</u>

Lot width (feet)

<u>Single</u>	<u>75*</u>	<u>75*</u>
<u>Duplex</u>	<u>135</u>	<u>135</u>
<u>Triplex</u>	<u>195</u>	<u>190</u>
<u>Quad</u>	<u>255</u>	<u>245</u>

\*(The lot area and width standards indicated by an asterisk are not new standards.)

Subp. 2b. Lot width standards for single, duplex, triplex, and quad residential development; river classes. The lot width standards for single, duplex, triplex, and quad residential development for river classes are:

Lot width (feet)

	<u>Re-</u> <u>mote</u>	<u>For-</u> <u>ested</u>	<u>Trans-</u> <u>ition</u>	<u>Agri-</u> <u>cultural</u>	<u>Urban &amp;</u> <u>Tributary</u>	<u>No sewer</u>	<u>Sewer</u>
<u>Single</u>	<u>300</u>	<u>200</u>	<u>250</u>	<u>150</u>	<u>100</u>	<u>75</u>	
<u>Duplex</u>	<u>450</u>	<u>300</u>	<u>375</u>	<u>225</u>	<u>150</u>	<u>115</u>	
<u>Triplex</u>	<u>600</u>	<u>400</u>	<u>500</u>	<u>300</u>	<u>200</u>	<u>150</u>	
<u>Quad</u>	<u>750</u>	<u>500</u>	<u>625</u>	<u>375</u>	<u>250</u>	<u>190</u>	

Subp. 3. Placement and height of structures and facilities on lots. When more than one setback requirement applies to a site, structures and facilities must be located to meet all setbacks. The placement of structures and other facilities on all lots shall must

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## Proposed Rules

be controlled managed by the municipal shoreland ordinance in accordance with the class of public waters, high water elevation, and location of roads and highways controls as follows:

A. Structure setbacks. The following minimum setbacks presented in the following table for each class of public waters shall apply to all structures, except those specified as exceptions in water-oriented accessory structures and facilities, that are managed according to item F H:

(1) for natural environment waters, at least 200 feet from the ordinary high water mark for lots not served by public sewer and at least 150 feet from the ordinary high water mark for lots served by public sewer;

(2) for recreational development waters, at least 100 feet from the ordinary high water mark for lots not served by public sewer and at least 75 feet from the ordinary high water mark for lots served by public sewer;

(3) for general development waters, at least 75 feet from the ordinary high water mark for lots not served by public sewer and at least 50 feet from the ordinary high water mark for lots served by public sewer; and

(4) furthermore, no structure shall be erected in the floodway of a river or stream as defined in Minnesota Statutes 1974, section 104.02.

### STRUCTURE SETBACK STANDARDS

<u>Class</u>	<u>Ordinary high water level setback (feet)</u>		<u>Setback from top of bluff (feet)</u>
	<u>Unsewered</u>	<u>Sewered</u>	
<u>Natural environment</u>	<u>150</u>	<u>150*</u>	<u>30</u>
<u>Recreational development</u>	<u>100*</u>	<u>75*</u>	<u>30</u>
<u>General development</u>	<u>75*</u>	<u>50*</u>	<u>30</u>
<u>Remote river segments</u>	<u>200</u>	<u>200</u>	<u>30</u>
<u>Forested and transitional river segments</u>	<u>150</u>	<u>150</u>	<u>30</u>
<u>Agricultural, urban, and tributary river segments</u>	<u>100</u>	<u>50</u>	<u>30</u>

\* (The setback standards indicated by an asterisk are not new standards.)

B. High water elevations. In addition to the setback requirements of subpart 3 item A, municipal local shoreland ordinances shall control controls must regulate placement of structures in relation to high water elevation. Structures shall be placed at an elevation consistent with any applicable local floodplain management ordinances. When fill is required to meet this elevation, the fill shall be allowed to stabilize to accepted engineering standards before construction is begun. When no ordinances exist, the elevation to which the lowest floor, including basement, shall be placed shall Where state-approved, local flood plain management controls exist, structures must be placed at an elevation consistent with the controls. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

(1) For lakes, ponds, and flowages, by an evaluation of available flood information and consistent with statewide standards and criteria for management of floodplain areas of Minnesota or placing the lowest floor at a level at least three feet above the highest known water level. In those instances where sufficient data on known high water levels are not available, the ordinary high water mark shall be used by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher. In instances where lakes have a history of extreme water level fluctuations or have no outlet capable of keeping the lake level at or below a level three feet above the ordinary high water level, local controls may require structures to be placed higher.

(2) For rivers and streams, by an evaluation of available flood information and consistent with statewide standards and criteria for management of flood plain areas of Minnesota placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish the flood protection elevation. Under all three approaches, technical evaluations must be done consistent with parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.

(3) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this subpart if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

C. Bluff impact zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

D. Steep slopes. Local government officials must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

E. Proximity to unplatted cemeteries and significant historic sites. No structure may be placed nearer than 50 feet from the boundary of an unplatted cemetery protected under Minnesota Statutes, section 307.08, unless necessary approval is obtained from the Minnesota State Archaeologist's Office. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

~~C. F.~~ Proximity to roads and highways. No structure shall may be placed nearer than 50 feet from the right-of-way line of any federal, state, or county trunk highway; or 20 feet from the right-of-way line of any town road, public street, or others not classified.

~~D. G.~~ Height. All structures in residential districts in cities, except churches and nonresidential agricultural structures, shall must not exceed 35 25 feet in height, unless such structures are approved as part of a planned unit development pursuant to the procedures set forth in part 6120.3800.

~~E.~~ The total area of all impervious surfaces on a lot shall not exceed 30 percent of the total lot area.

~~F. Exceptions.~~

~~(1) Boathouses may be located landward of the ordinary high water mark as a conditional use provided they are not used for habitation and they do not contain sanitary facilities.~~

~~(2) Location of piers and docks shall be controlled by applicable state and local rules.~~

~~(3) Where development exists on both sides of a proposed building site, structural setbacks may be altered to take setbacks of existing structures into account.~~

~~(4) Commercial, industrial, or permitted open space uses requiring location on public waters may be allowed as conditional uses closer to such waters than the setbacks specified in this subpart.~~

H. Accessory structures and facilities. All accessory structures and facilities, except those that are water-oriented, must meet or exceed structure setback standards. If allowed by local government controls, each residential lot may have one water-oriented accessory structure or facility located closer to public waters than the structure setback if all of the following standards are met:

(1) The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point.

(2) The setback of the structure or facility from the ordinary high water level must be at least ten feet.

(3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions.

(4) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.

(5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities. Any accessory structures or facilities not meeting these criteria, or any additional accessory structures or facilities must meet or exceed structure setback standards.

I. Stairways, lifts, and landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

(1) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments.

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## Proposed Rules

(2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments.

(3) Canopies or roofs are not allowed on stairways, lifts, or landings.

(4) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

(5) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

(6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (1) to (5) are complied with in addition to the requirements of chapter 1340.

J. Decks. Decks must meet the structure setback standards. Decks that do not meet setback requirements from public waters may be allowed without a variance to be added to structures existing on the date the shoreland structure setbacks were established by ordinance, if all of the following criteria and standards are met:

(1) a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

(2) the deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing shoreline setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

(3) the deck is constructed primarily of wood, and is not roofed or screened.

### Subp. 4. Shoreland alterations. Shoreland alterations:

A. Natural vegetation in shoreland areas shall be preserved insofar as practical and reasonable in order to retard surface runoff and soil erosion, and to utilize excess nutrients. The removal of natural vegetation shall be controlled by the municipal shoreland ordinance in accordance with the following criteria:

(1) Clear cutting shall be prohibited, except as necessary for placing public roads, utilities, structures, and parking areas.

(2) Natural vegetation shall be restored insofar as feasible after any construction project.

(3) Selective cutting of trees and underbrush shall be allowed as long as sufficient cover is left to screen motor vehicles and structures when viewed from the water.

B. Grading and filling in shoreland areas or any other substantial alteration of the natural topography shall be controlled by the municipal shoreland ordinance in accordance with the following criteria:

(1) The smallest amount of bare ground shall be exposed for as short a time as feasible.

(2) Temporary ground cover, such as mulch, shall be used and permanent vegetative cover, such as sod, shall be provided.

(3) Methods to prevent erosion and trap sediment shall be employed.

(4) Fill shall be stabilized to accepted engineering standards. Vegetative alterations and excavations or grading and filling necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities are exempt from the vegetative alteration standards in this subpart and separate permit requirements for grading and filling. However, the grading and filling conditions of this subpart must be met for issuance of permits for structures and sewage treatment systems. Alterations of vegetation and topography must be controlled by local governments to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat. Public roads and parking areas, as regulated by subpart 5, are exempt from the provisions of this part.

A. Removal or alterations of vegetation, except for forest management or agricultural uses as provided for in subparts 5a and 5b, is allowed according to the following standards:

(1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Vegetation clearing outside of these zones is allowed if the activity is consistent with sound forest management and erosion control practices. Limited clearing of trees and shrubs to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, as well as providing a view to the water from the principal dwelling site, in these zones is allowed, provided that:

(a) the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

(b) along rivers, existing shading of water surfaces is preserved;

## Proposed Rules

(c) the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards; and

(d) all cutting, pruning, and trimming of trees is based on sound forest management practices for individual tree species.

(2) Use of fertilizer and pesticides in the shoreland management district must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation, or both.

B. Before grading or filling on steep slopes or within shore or bluff impact zones involving the movement of more than ten cubic yards of material, it must be established by local official permit issuance that all of the following conditions will be met. Movement of more than 50 cubic yards of material anywhere within shoreland areas on a bluff or on a steep slope of land sloping toward a public water or a watercourse leading to a public water requires prior issuance of a permit and consideration of the following factors. The following conditions must also be considered during subdivision, variance, building permit, and other conditional use permit reviews.

(1) Before authorizing any grading or filling activity in any type 2, 3, 4, 5, 6, 7, or 8 wetland, local officials must consider how extensively the proposed activity would affect the following functional qualities of the wetland:

(a) sediment and pollutant trapping and retention;

(b) storage of surface runoff to prevent or reduce flood damage;

(c) fish and wildlife habitat;

(d) recreational use;

(e) shoreline or bank stabilization; or

(f) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others. This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers.

(2) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

(3) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

(4) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

(5) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.

(6) Fill or excavated material must not be placed in a manner that creates an unstable slope.

(7) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater.

(8) Fill or excavated material must not be placed in bluff impact zones.

(9) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, section 105.42.

(10) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.

C. Alterations of beds of Connections to public waters. Any work which will change or diminish the course, current, or cross-section of a public water shall be approved by the commissioner before the work is begun. This includes construction of channels and ditches, lagooning, dredging of lakes or stream bottom for removal of muck, silt, or weeds, and filling in the lake or stream bed. Approval shall be construed to mean the issuance by the commissioner of a permit under the procedures of Minnesota Statutes 1974, section 105.42 and other related statutes.

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## Proposed Rules

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Excavations on shorelands where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, shall be controlled by the municipal local shoreland ordinance controls. Permission for such excavations may be given only after the commissioner has approved the proposed connection to public waters. Approval shall be given only if the proposed work is consistent with applicable state regulations for work in beds of public waters.

Subp. 5. **Placement and design of roads, driveways, and parking areas.** The placement of roads and parking areas shall be controlled in order to retard the runoff of surface waters and excess nutrients. The placement of roads and parking areas shall be controlled by the municipal shoreland ordinance in accordance with the following criteria:

A. No impervious surface shall be placed within 50 feet of the ordinary high water mark.

B. Where feasible and practical, all roads and parking areas shall meet the setback requirements established for structures in subpart 3.

C. Natural vegetation or other natural materials shall be used in order to screen parking areas when viewed from the water. Public and private roads, driveways, and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. They must be designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

A. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

B. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of subpart 4, item B, must also be met.

Subp. 6. [See Repealer.]

Subp. 7. **Agricultural use standards.** The agricultural use standards for shoreland areas are contained in items A, B, C, and D.

A. The shore impact zone for all classes of public waters with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

B. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service.

C. Animal feedlots, where allowed by zoning district designations, must be reviewed as conditional uses and must meet the following standards:

(1) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins.

(2) Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

(3) A certificate of compliance, interim permit, or animal feedlot permit, when required by parts 7020.0100 to 7020.1900, must be obtained by the owner or operator of an animal feedlot.

D. Use of fertilizer, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

Subp. 8. **Forest management standards.** Timber harvesting and associated reforestation are permitted uses in special protection districts. They are also permitted uses in all other districts, unless located within 1,000 feet of a concentration of nine or more adjacent dwelling units under different ownership with an average lot size of two acres or less, where they will be conditional uses. The harvesting of timber and associated reforestation or conversion of land to other uses must be conducted consistent with the following standards:

A. Timber harvesting and associated reforestation must:

(1) Preserve buffer strips of vegetation between the ordinary high water level and the cutting area of sufficient width to effectively filter sediments out of surface runoff before it reaches public waters;

(2) Keep landing or yarding areas or skid or haul roads out of shore and bluff impact zones, except for stream crossing approaches or winter harvesting operations. If necessary, these facilities may be located on steep slopes if they are designed and managed to prevent sediment movement into public waters.

(3) Use reforestation practices that reestablish desired forest species as quickly as possible and prevent erosion into public waters.

B. If allowed by local governments, forest land conversion to another use requires issuance of a conditional use permit and adherence to the following standards:

(1) shore and bluff impact zones must not be intensively cleared of vegetation; and

(2) an erosion and sediment control plan is developed and approved by the local soil and water conservation district before issuance of a conditional use permit for the conversion.

C. Use of fertilizer, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

Subp. 9. Extractive use standards. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

An extractive use site development and restoration plan must be developed, approved by the local government, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

Subp. 10. Standards for commercial industrial, public, and semipublic uses. Surface water-oriented commercial uses and manufacturing, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions. Those with water-oriented needs must meet the following standards:

A. In addition to meeting impervious coverage limits, setbacks, and other zoning standards presented elsewhere in parts 6120.2500 to 6120.3900, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

B. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.

C. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

(1) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.

(2) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

(3) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

Subp. 11. Stormwater management. Local governments must consider proper stormwater management in all reviews, approvals, and permit issuances under shoreland management controls adopted under parts 6120.2500 to 6120.3900. The following general and specific standards must be incorporated into local government shoreland management controls and their administration.

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## Proposed Rules

### A. The following are general standards:

(1) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

(2) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(3) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

### B. The following are specific standards:

(1) Impervious surface coverage of lots must not exceed 25 percent of the lot area.

(2) When constructed facilities are used for stormwater management, they must be designed and installed consistent with the Field Office Technical Guide of the Minnesota Soil and Water Conservation districts and the United States Soil Conservation Service.

(3) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

## 6120.3400 SANITARY PROVISIONS.

Subpart 1. [See Repealer.]

Subp. 2. ~~Water supply.~~ Water supply:

A. ~~Any public or private supply of water for domestic purposes shall conform to Minnesota Department of Health must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.~~

B. ~~Private wells shall must be placed in areas not subject to flooding and upslope from any source of contamination. Wells already existing in areas subject to flooding shall be floodproofed in accordance with accepted engineering standards located, constructed, and abandoned in accordance with or in a more thorough manner than the Water Well Construction Code of the Minnesota Department of Health.~~

Subp. 3. ~~Sewage and waste disposal treatment.~~ Any premises used for human occupancy shall must be provided with an adequate method of sewage disposal to be maintained in accordance with acceptable practices treatment.

A. ~~Public or municipal collection and treatment facilities shall~~ Publicly-owned sewer systems must be used where available or feasible.

B. All private sewage and other sanitary waste disposal systems shall conform to treatment systems must meet or exceed applicable standards, criteria, and rules of the Minnesota Department of Health, the Minnesota Pollution Control Agency, specifically chapter 7080 for individual sewage treatment systems, and any applicable local government rules in terms of size, construction, use, and maintenance standards.

C. Location and installation of a septic tank and soil absorption system shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance, endanger the quality of any domestic water supply, or pollute or contaminate any waters of the state. In determining a suitable location for the system, consideration shall be given to the size and shape of the lot, slope of natural and finished grade, soil permeability, high groundwater elevation, geology, proximity to existing or future water supplies, accessibility for maintenance, and possible expansion of the system.

D. ~~Septic tank and soil absorption~~ On-site sewage treatment systems shall must be set back from the ordinary high water mark level in accordance with the class of public waters following table:

(1) on natural environment waters, at least 150 feet;

(2) on recreational development waters, at least 75 feet; and

(3) on general development waters, at least 50 feet.

E. Soil absorption systems shall not be allowed in the following areas for disposal of domestic sewage:

(1) low, swampy areas or areas subject to recurrent flooding;

(2) areas where the highest known groundwater table, bedrock, or impervious soil conditions are within four feet of the bottom of the system; and

(3) areas of ground slope which create a danger of seepage of the effluent onto the surface of the ground.

F. Municipal shoreland ordinances may require or allow alternative methods of sewage disposal such as holding tanks, privies, electric or gas incinerators, biological and/or tertiary waste treatment plants or land disposal systems, provided such facilities meet the standards, criteria, and rules of the Minnesota Pollution Control Agency and the Minnesota Department of Health.

G. Public sewage disposal and commercial, agricultural, solid waste, and industrial waste disposal shall be subject to the standards, criteria, and rules of the Minnesota Pollution Control Agency.

**SEWAGE TREATMENT SYSTEM SETBACK STANDARDS**

<u>Class</u>	<u>Setback from ordinary high water level (feet)</u>
<u>Natural environment</u>	<u>150*</u>
<u>Recreational development</u>	<u>75*</u>
<u>General development</u>	<u>50*</u>
<u>Remote river segments</u>	<u>150</u>
<u>Forested river segments</u>	<u>100</u>
<u>Transition river segments</u>	<u>100</u>
<u>Agricultural river segments</u>	<u>75</u>
<u>Urban and tributary river segments</u>	<u>75</u>

\*(The setback standards indicated by an asterisk are not new standards.)

D. Local governments must, as funds are available, develop and implement programs to identify and upgrade sewage treatment systems that are inconsistent with item B. These programs must require reconstruction of existing nonconforming sewage systems whenever a permit or variance of any type is required for any improvement on, or use of, the property, and must include at least one of the following approaches:

- (1) a systematic review of existing records to determine which systems in the jurisdiction are nonconforming and requiring reconstruction when practicable;
- (2) a systematic on-site inspection program including all properties where adequate record of conformances does not exist, identifying nonconforming or illegal systems and requiring reconstruction when appropriate;
- (3) a notification or education program that is oriented toward convincing substantial numbers of property owners to evaluate their sewage systems and voluntarily upgrade the sewage treatment system, if nonconforming; or
- (4) other programs found to be acceptable to the commissioner.

**6120.3500 LAND SUITABILITY SUBDIVISION PROVISIONS.**

Subpart 1. Land suitability. No land shall be subdivided which is held unsuitable by the municipality. Each lot created through subdivision must be suitable in its natural state for the proposed use because of with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, inadequate drainage existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable steep topography, inadequate water supply or sewage disposal treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

Subp. 2. Platting. All subdivisions that create five or more lots or parcels that are 2-1/2 acres or less in size must be processed by local governments as plats in accordance with Minnesota Statutes, chapter 505. Local governments must not record parcels or issue building or sewage permits for lots created after enactment of official controls under parts 6120.2500 to 6120.3900 that are not part of officially approved subdivisions.

Subp. 3. Consistency with other controls. Subdivisions must conform to all other official controls adopted by local governments under parts 6120.2500 to 6120.3900. Local governments must not approve subdivisions that are designed so variances from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, subdivisions must not be approved by local governments unless domestic water supply is available and soil absorption sewage treatment can be provided for every lot. A lot shall meet the minimum lot size in part 6120.3300,

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## Proposed Rules

subparts 2a and 2b, including at least a minimum contiguous lawn area, that is free of limiting factors (location and type of water supply, soil type, depth to groundwater or impervious layer, slope, flooding potential, and other limiting factors), sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved. During the subdivision review process, the appropriate governmental agency must be notified by the local government if the proposed subdivision includes land identified during the designation of zoning districts (part 6120.3200, subpart 1) as potential public accesses. The local government must not delay approval of the plat pending acquisition of the access by the state.

Subp. 4. Information requirements. Subdivision controls must require submission of adequate information to make a determination of land suitability under subpart 1. The information shall include at least the following:

A. topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;

B. the surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

C. adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;

D. information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities; and

E. location of 100-year flood plain areas from existing maps or data.

Subp. 5. Dedications. If local governments require land or easement dedications, they must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

### 6120.3800 PLANNED UNIT DEVELOPMENT.

Altered zoning standards may be allowed as exceptions to the municipal shoreland ordinance for planned unit developments provided:

A. Preliminary plans shall be approved by the commissioner prior to their approval by the municipality.

B. Central sewage facilities shall be installed which at least meet the applicable standards, criteria, or rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency or the planned unit development is connected to a municipal sanitary sewer.

C. Open space is preserved. This may be accomplished through the use of restrictive deed covenants, public dedications, or other methods.

D. That the following factors are carefully evaluated to ensure that the increased density of development is consistent with the resource limitations of the public water:

- (1) suitability of the site for the proposed use;
- (2) physical and aesthetic impact of increased density;
- (3) level of current development;
- (4) amount and ownership of undeveloped shoreland;
- (5) levels and types of water surface use and public access; and
- (6) possible effects on overall public use.

E. Any commercial, recreational, community, or religious facility allowed as part of the planned unit development shall conform to all applicable federal and state regulations including, but not limited to the following:

- (1) licensing provisions or procedures;
- (2) waste disposal rules;
- (3) water supply rules;
- (4) building codes;
- (5) safety rules;
- (6) rules concerning the appropriation and use of public waters as defined in Minnesota Statutes 1974, chapter 105; and
- (7) applicable rules of the Minnesota Environmental Quality Board.

## Proposed Rules

F. The final plan for a planned unit development shall not be modified, amended, repealed, or otherwise altered unless approved in writing by the developer, the municipality, and the commissioner.

G. There are centralized shoreline recreation facilities such as beaches, docks, and boat launching facilities.

Subpart 1. Scope of planned unit development provisions. Local governments must consider incorporating, with approval of the commissioner, provisions into shoreland management controls to allow planned unit developments. The provisions may allow planned unit developments for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The provisions must be consistent with standards in this part. During the period between adoption of parts 6120.2500 to 6120.3900 and adoption of local government official controls meeting the planned unit development standards in part 6120.3800, preliminary plans for each planned unit development must be reviewed for consistency with part 6120.3800 and approved by the commissioner before final local government approval.

Subp. 2. Land use district designation. If local governments allow planned unit developments, the land use districts in which they are an allowable conditional use must be identified in their official controls and on a zoning map. Designation of the districts must be based on consideration of the criteria in part 6120.3200 and the following criteria:

A. existing recreational use of the surface waters and likely increases in use associated with planned unit developments;

B. physical and aesthetic impacts of increased density;

C. suitability of lands for the planned unit development approach;

D. level of current development in the area; and

E. amounts and types of ownership of undeveloped lands.

Expansions to existing commercial planned unit developments involving up to six dwelling units or sites, unless the density determined under subpart 6, item A is exceeded, may be allowed as permitted uses under standards developed by local units of government. The date of effect of official controls adopted by each local government under this part must be the base date for determination of expansions. Expansions exceeding these limits must be processed as conditional uses and meet the standards in this part.

Subp. 3. Information requirements. Provisions for submission of adequate information by project proponents must be included in official controls. The provisions must include at least the following:

A. a site plan for the project showing property boundaries, surface water features, existing and proposed structures, sewage treatment systems, topographic contours at ten-foot intervals or less, and other facilities; and

B. documents that explain how the project is designed and will function. These ordinarily include covenants that require membership in a property owners association, various easements, a concept statement describing the project, floor plans for structures, and various other drawings or plans.

Subp. 4. Dwelling unit or site density evaluation. Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards:

A. The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

### SHORELAND TIER DIMENSIONS

	<u>Unsewered</u> <u>(feet)</u>	<u>Sewered</u> <u>(feet)</u>
<u>General development lakes - first tier</u>	<u>200</u>	<u>200</u>
<u>General development lakes - second and additional tiers</u>	<u>267</u>	<u>200</u>
<u>Recreational development lakes</u>	<u>267</u>	<u>267</u>
<u>Natural environment lakes</u>	<u>400</u>	<u>320</u>
<u>All river classes</u>	<u>300</u>	<u>300</u>

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## Proposed Rules

B. The area within each tier is next calculated, excluding all wetlands, bluffs, or land below the ordinary high water level of public waters. This area is then subjected to either the residential (subpart 5) or commercial (subpart 6) planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

Subp. 5. Residential planned unit development density evaluation steps and design criteria. The density evaluation steps and design criteria for residential planned unit developments are contained in items A to D.

A. The area within each tier is divided by the lot size standard to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit development are then compared with these data and map of the evaluation. Local governments may allow some dwelling unit or site density increases for residential planned unit developments above the densities determined in the evaluation if all dimensional standards in part 6120.3300 are met or exceeded. Maximum density increases may only be allowed if all design criteria in subpart 5, item B, are also met or exceeded. Increases in dwelling unit or site densities must not exceed the maximums in the following table. Allowable densities may be transferred from any tier to any other tier further from the shoreland water body or watercourse, but must not be transferred to any other tier closer.

### MAXIMUM ALLOWABLE DWELLING UNIT OR SITE DENSITY INCREASES FOR RESIDENTIAL PLANNED UNIT DEVELOPMENTS

<u>Density evaluation tiers</u>	<u>Maximum density increase within each tier (percent)</u>
<u>First</u>	<u>50</u>
<u>Second</u>	<u>100</u>
<u>Third</u>	<u>200</u>
<u>Fourth</u>	<u>200</u>
<u>Fifth</u>	<u>200</u>

B. The design criteria are:

(1) All residential planned unit developments must contain at least five dwelling units or sites.

(2) Residential planned unit developments must contain open space meeting all of the following criteria:

(a) At least 50 percent of the total project area must be preserved as open space.

(b) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and should not be included in the computation of minimum open space.

(c) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.

(d) Open space may include outdoor recreational facilities for use by owners of the dwelling units or sites, or the public.

(e) The shore impact zone, based on normal structure setbacks, must be included as open space. At least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in their natural or existing state.

(f) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities.

(g) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.

(h) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.

(3) Centralization and design of facilities and structures must be done according to the following standards:

(a) Residential planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system. All new dwelling units must use water conserving plumbing fixtures.

## Proposed Rules

(b) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased for developments with density increases. Maximum density increases may only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

(c) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

(d) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions.

(e) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in part 6120.3100, subpart 3, item H, and are centralized.

(f) Accessory structures and facilities may be allowed if they meet or exceed standards in part 6120.3300, subpart 3, item H, and are centralized.

(4) Erosion control and stormwater management for residential planned unit developments must:

(a) Be designed, and their construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

(b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff.

C. Administration and maintenance requirements. Before final approval of all residential planned unit developments, local governments must ensure adequate provisions have been developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development as a community.

(1) Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

(a) commercial uses prohibited;

(b) vegetation and topographic alterations other than routine maintenance prohibited;

(c) construction of additional buildings or storage of vehicles and other materials prohibited; and

(d) uncontrolled beaching prohibited.

(2) Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners association with the following features:

(a) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.

(b) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.

(c) Assessments must be adjustable to accommodate changing conditions.

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## Proposed Rules

(d) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

D. Conversions. Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met:

(1) Proposed conversions must be initially evaluated using the same procedures and standards presented in this part for developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

(2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(3) Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

(a) removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

(b) remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

(c) if existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

(4) Existing dwelling unit or dwelling site densities that exceed standards in this part may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

Subp. 6. Commercial planned unit development density evaluation steps and design criteria. The density evaluation steps and design criteria for commercial planned unit developments are contained in items A and B:

### A. Density evaluation steps:

(1) Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.

(2) Select the appropriate floor area ratio from the table in part 6120.3100, subpart 3, item A.

(3) Multiply the useable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

(4) Divide the area computed in subitem (3) by the average determined in subitem (1). This yields a base number of dwelling units and sites for each tier.

(5) Determine whether the project is eligible for any additional density increases. To be eligible, projects must meet all of the design standards in item B, and exceed one or more of them. The local unit of government may decide how much, if any, increase in density to allow for each tier, but must not exceed the maximum allowable density increases listed in the table in part 6120.3200, subpart 3, item C.

(6) Allowable densities may be transferred from any tier to any other tier further from the shoreland lake or river, but must not be transferred to any other tier closer.

### COMMERCIAL PLANNED UNIT DEVELOPMENT FLOOR AREA RATIOS\*

#### Public waters classes

General dvlp.  
lakes; first  
tier on  
unsewered  
general dvlp.  
lakes; urban,  
agricultural,

Second and  
additional tiers  
on unsewered  
general dvlp.  
lakes;  
recreational  
dvlp. lakes;

Natural  
environment

<u>Avg. unit floor area (sq. ft.)</u>	<u>tributary river segments</u>	<u>transition and forested river segments</u>	<u>lakes; remote river segments</u>
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

\*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

**MAXIMUM ALLOWABLE DWELLING UNIT OR SITE DENSITY INCREASES FOR COMMERCIAL PLANNED UNIT DEVELOPMENTS**

<u>Tier</u>	<u>Maximum density increase within each tier (percent)</u>
<u>First</u>	50
<u>Second</u>	100
<u>Third</u>	200
<u>Fourth</u>	200
<u>Fifth</u>	200

**B. The design criteria are:**

(1) Open space. Commercial planned unit developments must contain open space meeting all of the following criteria:

(a) At least 50 percent of the total project area must be preserved as open space.

(b) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, or parking areas, except water-oriented accessory structures or facilities, are developed areas and should not be included in the computation of open space.

(c) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.

(d) All shore impact zones within commercial planned unit developments must be included as open space, and at least 50 percent of these areas must be preserved in their natural or existing state.

(e) Open space may include outdoor recreation facilities for use by guests staying in dwelling units or sites, or the public.

(f) Open space may include subsurface sewage treatment systems if use of the space is restricted to avoid adverse impacts on the systems.

(2) Design of structures and facilities must be done according to the following standards:

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## Proposed Rules

(a) Commercial planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be designed and installed to meet or exceed applicable rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system.

(b) Dwelling units or sites must be located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above surface water features, and maximum height. Maximum density increases may only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or other means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

(c) Structures, parking areas, and other facilities must be designed and located in a manner that minimizes their visibility from surface water features, assuming summer, leaf-on conditions. The structure, dwelling unit, accessory structure, or parking area must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

(d) Water-oriented accessory structures and facilities may be located within shore impact zones if they meet or exceed design standards contained in part 6120.3300, subpart 3, item H.

(e) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of watercraft allowed to be continuously beached, moored, or docked must not exceed one for each allowable dwelling unit or site in the first tier, notwithstanding existing mooring sites in an existing harbor. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

(3) Erosion control and stormwater management for commercial planned unit developments must:

(a) Be designed, and their construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

(b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistent with part 6120.3300, subpart 4.

### 6120.3900 ADMINISTRATION.

Subpart 1. **Administration and enforcement.** Municipalities shall Local governments must provide for the administration and enforcement of the municipal their shoreland ordinance adopted pursuant to Minnesota Statutes 1974, section 462.362 management controls by establishing permit procedures for building construction, installation of sewage treatment systems, and grading and filling.

Subp. 2. [See Repealer.]

Subp. 3. **Variations.** Variations shall may only be granted when there are particular hardships which make strict enforcement of official controls impractical in accordance with Minnesota Statutes, chapter 394. They shall may not circumvent the general purposes and intent of the official controls. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of variations to ensure compliance and to protect adjacent properties and the public interest. In considering variance requests, boards of adjustment must also consider whether property owners have reasonable use of the lands without the variations, whether existing sewage treatment systems on the properties need upgrading before additional development is approved, whether the properties are used seasonally or year-round, whether variations are being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

Subp. 3a. Conditional uses. In addition to any existing standards local governments may have for reviewing conditional uses, the following standards must be incorporated into local controls and used for reviewing conditional uses located in shoreland areas:

A. a thorough evaluation of the topographic, vegetation, and soils conditions on the site to ensure:

- (1) prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- (2) limiting visibility of structures and other facilities as viewed from public waters; and
- (3) adequacy of the site for water supply and on-site sewage treatment; and

B. an assessment of the types, uses, and numbers of watercraft that the project will generate in relation to the suitability of public waters to safely accommodate these watercraft.

Local governments may impose conditions when granting conditional use permits that specify: increased setbacks from public waters; vegetation allowed to be removed or required to be established; sewage treatment system location, design, or use; location, design, and use requirements for watercraft launching or docking, and for vehicular parking; structure or other facility design, use, and location; phasing of construction; and other conditions considered necessary by the local unit of government.

Subp. 4. **Nonconforming uses Nonconformities.** Under authority of *Minnesota Statutes* 1974, section 462, municipalities may adopt provisions to regulate, control, and reduce the number or extent of and gradually eliminate nonconforming and substandard uses. Municipalities shall provide for the elimination of sanitary facilities inconsistent with part 6120.3400, subpart 3, items B, C, and E over a period of time not to exceed five years from the date of enactment of the municipal ordinance.

A. Local governments must require upgrading or replacement of any existing, on-site sewage treatment system identified as a nonconformity under a program established under part 6120.3400. Systems installed according to all applicable local shoreland management standards adopted under *Minnesota Statutes*, section 105.485, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by chapter 7080, shall be considered nonconforming.

B. All nonconformities other than on-site sewage treatment systems must be managed according to applicable state statutes and local government official controls.

Subp. 4a. Shoreland management by townships. Townships may adopt shoreland management controls under authority of *Minnesota Statutes*, section 394.33, subdivision 1, if the controls are not inconsistent with or less restrictive than the controls adopted by the county in which the township is located.

A. For the purposes of parts 6120.2500 to 6120.3900, shoreland management controls adopted by townships will only be considered to be consistent with county controls if they cover the same full range of shoreland management provisions covered by the county controls, contain dimensional standards at least as restrictive as those in the county controls, and do not allow land uses in particular areas that are not allowed under the county's official controls.

B. The township must demonstrate to the county board that their proposed ordinance and administration is at least as restrictive as the county's prior to final adoption by the township. Townships must provide for administration and enforcement of shoreland management controls at least as effective as county implementation. Townships that adopt adequate shoreland controls must follow all of the notification procedures in subpart 6. After adequate shoreland management controls are adopted by a township, property owners must only obtain necessary permits and approvals as required in the township shoreland management controls. Property owners do not have to obtain similar permits or approvals under the county's shoreland controls.

Subp. 5. **Joint exercise of powers.** In order to facilitate more logical, consistent, and efficient administration of municipal shoreland management ordinances, municipalities controls, local governments are encouraged, wherever feasible and practicable, to enter into joint powers agreements with adjacent or otherwise similarly situated local units of government for the purpose of to jointly administering and enforcing administer shoreland management ordinances controls pursuant to the procedures and authority of *Minnesota Statutes* 1974, sections 394.32 and 471.59.

**Subp. 6. Notification procedures.**

A. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under the municipal local shoreland management ordinance shall controls must be received by sent to the commissioner or the commissioner's designated representative and postmarked at least ten days prior to such before the hearings. Notices of hearings to consider proposed plats must include copies of the plats.

B. A copy of approved amendments and plats, and final decisions granting variances or conditional uses under the municipal local shoreland management ordinance shall controls must be received by sent to the commissioner or the commissioner's designated

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## Proposed Rules

representative and postmarked within ten 30 days of final action or amendment.

C. Townships with shoreland management controls adopted under subpart 4a must also provide these materials to the zoning official of the county.

**REPEALER.** Minnesota Rules, parts 6120.0100; 6120.0200; 6120.0300; 6120.0400; 6120.0500; 6120.0600; 6120.0700; 6120.0800; 6120.0900; 6120.1000; 6120.1100; 6120.1200; 6120.1300; 6120.1400; 6120.1500; 6120.1600; 6120.1700; 6120.1800; 6120.1900; 6120.2000; 6120.2100; 6120.2500, subparts 4, 6, and 18; 6120.2700; 6120.2900; 6120.3300, subpart 6; 6120.3400, subpart 1; 6120.3600; 6120.3700; and 6120.3900, subpart 2, 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 Agriculture

### Adopted Permanent Rules Relating to Pesticide Chemigation Safety

The rules proposed and published at *State Register*, Volume 12, Number 42, pages 2281-2285, April 18, 1988 (12 S.R. 2281) are adopted with the following modifications:

#### Rules as Adopted

##### 1505.2000 DEFINITIONS.

Subp. 12. **Operating chemigation equipment.** "Operating chemigation equipment" includes, but is not limited to:

A. preparing the solution and filling the pesticide supply ~~container~~ tank;

##### 1505.2020 ANTI-POLLUTION DEVICES AND PROCEDURES.

Subp. 2. **Pesticide supply tank.** A pesticide supply tank used to supply ~~the an~~ an injection system for a ~~single injection~~ during chemigation may be located no closer than ~~15~~ 20 feet from the irrigation water supply, ~~such as a or~~ well head, unless positioned in ~~an approved~~ a containment unit as specified in subpart 3. Pesticide preparation or filling areas ~~and pesticide storage sites~~ may not be located within 150 feet of the water supply. The chemical injection point must be located down line from all anti-pollution devices located in the supply pipeline.

Subp. 3. **Storage; supply; containment.** Pesticide supply tanks and pesticide storage sites in use longer used for more than three ~~consecutive~~ months ~~at the chemigation site and any pesticide supply container used in conjunction with the a~~ chemigation system must be provided with a means of containment ~~that will when located within 150 feet of the irrigation water supply, or well head~~ in order to prevent unreasonable adverse effects on the environment in the event of a spill or leak. Containment capacity must be 125 percent of the supply container. Materials used for containment must be compatible with the pesticide stored in them. The containment unit must be compatible with the stored pesticide and must be designed to withstand a full hydrostatic head of discharged liquid. The containment unit may only be constructed of commissioner-approved synthetic materials, stainless steel, reinforced concrete, or reinforced masonry. The containment unit may be portable.

Subp. 4. **Anti-pollution devices; valves.** Anti-pollution devices and valves for irrigation systems used for chemigation purposes must be designed and built of materials suitable for those purposes, including compatibility, and must be kept functional during chemigation application. The devices must comply with items A to H ~~C~~, and may be installed as portable devices for use on other registered chemigation or irrigation systems. Portable devices are not allowed for use for systems connected to public water supply systems.

## Adopted Rules

A. A reduced pressure zone backflow preventer or two check valves in series must be provided for systems not connected to a public water supply. The device must be located in the irrigation system supply pipeline between the irrigation system supply pump and the point of injection of the pesticide. ~~If two check valves are used, each check valve must be immediately preceded in the system by a vacuum relief valve and an automatic low pressure drain valve. Check valves, when installed, must be level, except that a deviation of not more than ten degrees from the horizontal is permitted.~~

B. A reduced pressure zone backflow preventer must be provided for chemigation systems connected to a public water supply. The reduced pressure zone backflow preventer must be located in the irrigation supply line between the irrigation system supply pump and the point of injection of the pesticide.

(1) ~~A~~ The reduced pressure zone backflow preventer must be certified by a recognized testing laboratory acceptable to the commissioner. The commissioner shall keep a list of acceptable testing laboratories and manufacturers models.

(2) ~~A check valve must be of heavy duty construction with all materials, including internal parts, resistant to corrosion or protected to resist corrosion. It must be quick-closing by spring action and tight-sealing so that no leakage occurs at joints or the valve seat when subjected to an internal hydrostatic pressure test of at least two times the rated manufacturer's working pressure of the valve for one minute, and when subjected to an internal hydrostatic pressure equivalent to the head of a column of water five feet high retained within the downstream portion of the valve body for 16 hours, as evidenced by independent laboratory testing.~~

~~Check valves must be of a manufacturer and model specifically approved by the commissioner for use in chemigation systems. A check valve of a type that has not received prior approval by the commissioner may not be used until its adequacy has been demonstrated to the satisfaction of the commissioner and approval granted.~~

~~C. When required to be provided by item A, a vacuum relief valve must be installed on the top of the horizontal irrigation pipeline on the supply side of each check valve. The valve must have an orifice size of at least 3/4-inch diameter for a four-inch pipe, one inch diameter for a five- to eight-inch pipe, and two-inch diameter for a ten- or 12-inch pipe.~~

~~D. When required to be provided by item A, an automatic low pressure drain must be provided on the bottom of the horizontal irrigation pipeline on the supply side of each check valve. The device must have an orifice size of at least 3/4-inch diameter. The drain may not extend beyond the inside surface of the bottom of the irrigation pipeline or conduit, and must be at least two inches above grade. The device must be positioned, or the location grade adjusted, so that when draining occurs, liquid will flow away from any water supply.~~

C. When two check valves are used, each check valve must be equipped with an inspection port or similar device and be immediately preceded in the irrigation system by a vacuum relief valve and automatic low pressure drain valve.

The inspection port must be installed in a manner on the horizontal irrigation pipeline on the supply side of each check valve so that the inlet to the automatic low pressure drain can be observed during irrigation system shutdown.

The vacuum relief valve must be installed on the top of the horizontal irrigation pipeline on the supply side of each check valve. The valve must have an orifice size of at least 3/4-inch diameter for a four-inch pipe; a one-inch diameter for a five- to eight-inch pipe; and a two-inch diameter for a ten- or 12-inch pipe.

The automatic low pressure drain must be provided on the bottom of the horizontal irrigation pipeline on the supply side of each check valve. The device must have an orifice size of at least 3/4-inch diameter. The drain may not extend beyond the inside surface of the bottom of the irrigation pipeline or conduit and must be at least two inches above grade. The device must be positioned, or the location of the grade adjusted, so that when draining occurs, liquid will flow away from any water supply.

A check valve must be of heavy duty construction with all materials, including internal parts, resistant to corrosion or protected to resist corrosion. It must be rated a minimum of 150 pounds per square inch working pressure and be quick-closing by spring action and tight-sealing so that no leakage occurs at joints or the valve seat when subjected to an internal hydrostatic pressure test of at least two times the valid manufacturer's working pressure of the valve for one minute, and when subjected to an internal hydrostatic pressure equivalent to the head of a column of water five feet high, retained within the downstream portion of the valve body for 16 hours, as evidenced by independent laboratory testing.

Check valves must be of a manufacturer and model specifically approved by the commissioner for use in chemigation systems. A check valve of a type that has not received prior approval by the commissioner may not be used until its adequacy has been demonstrated to the satisfaction of the commissioner and approval granted.

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## Adopted Rules

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Check valves, when installed, must be level except that a deviation of not more than ten degrees from the horizontal is permitted.

~~E.~~ D. A flow interrupter device interlocked with the injection unit must be provided in the pesticide supply line between the pesticide injection unit and the supply tank. A normally closed, solenoid-operated valve or other similar device is an acceptable method to positively prevent flow of material or liquid during injection system failure or shutdown.

~~F.~~ E. A check valve that is resistant to chemicals must be provided on the pesticide injection line between the point of pesticide injection into the irrigation system and the pesticide injection unit, pump, or solution tank, positioned to prevent the flow of liquid from the irrigation line to the pesticide injection device.

~~G.~~ F. A mechanical or electrical interlock must be provided between the irrigation system or pump and the pesticide injection unit. If interruption of the irrigation water flow occurs, the interlock must, at a minimum, cause the shutdown of the pesticide injection unit.

~~H.~~ G. A low pressure switch must be located on the irrigation pipeline that will shut down the irrigation system's power supply when the water pressure decreases to the point where the pesticide distribution is adversely affected.

Subp. 6. **Posting of sites.** Sites being treated with pesticides through irrigation systems must be posted according to label instructions throughout the period of pesticide treatment.

### **1505.2060 INSPECTION, INSTALLATION, MAINTENANCE, AND MODIFICATION.**

Subp. 4. **Modification.** If modification or changes in design, technology, irrigation practices, or other similar reasons warrant the use or placement of equipment other than that specified in parts 1505.2000 to 1505.2070, the Department of Agriculture ~~shall~~ may allow the changes if protection to the water supply is at least equal to that provided by the equipment or equipment placement, required in parts 1505.2000 to 1505.2070. Prior to making any changes in the system, the applicant shall submit a revised chemigation permit application to the commissioner. The commissioner has 45 days to review the application and issue a new permit or advise the applicant in writing of an unsatisfactory review, detailing all necessary revisions.

## Department of Commerce

### **Adopted Permanent Rules Relating to Petroleum Tank Release Compensation Board**

The rules proposed and published at *State Register*, Volume 12, Number 48, pages 2602-2603, May 30, 1988 (12 S.R. 2602) are adopted as proposed.

## Minnesota Municipal Board

### **Adopted Permanent Rules Relating to Filing Fees**

The rule proposed and published at *State Register*, Volume 12, Number 49, pages 2660-2661, June 6, 1988 (12 S.R. 2660) is adopted as proposed.

# Emergency Rules

## Proposed Emergency Rules

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

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

## Adopted Emergency Rules

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

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

## Continued/Extended Emergency Rules

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

# Telecommunication Access for Communication-impaired Persons Board

## Proposed Emergency Rules Relating to Eligibility for Services Under the Telecommunication Access for Communication-impaired Persons Act

### Notice of Intent to Adopt Emergency Rules

NOTICE IS HEREBY GIVEN that the Minnesota TACIP Board intends to adopt the above-entitled emergency rules. The statutory authority to adopt the emergency rule is contained in *Minnesota Statutes* § 237.50 (1987). The TACIP Board, in adopting the rules, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules, *Minnesota Statutes* §§ 14.29 to 14.36 (1986).

All persons have 25 days, specifically until 5:00 p.m. on Friday, September 23, 1988, to submit written data and views on the proposed emergency rules or any part or subpart of the rules. Any comments must be submitted to:

TACIP Program  
790 American Center Building  
150 East Kellogg Boulevard  
St. Paul, Minnesota 55101  
(612) 296-0412 (Voice)  
(612) 296-9863 (TDD)

If adopted, the proposed emergency rules will provide for a statewide program to distribute telephone communication devices to eligible communication-impaired persons and to create and maintain a message relay service for improving access to telephone communications services for communication-impaired persons. The proposed rules are published below. A free copy of the proposed emergency rules is available by contacting the TACIP Program Administrator at the address and phone listed above.

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

Upon adoption of the emergency rules by the TACIP Board, the emergency rules as adopted and supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to the TACIP Program Administrator at the address stated above.

**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.

## Emergency Rules

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The emergency rules will take effect five working days after approval by the Attorney General and be effective for 180 days. The emergency rules will continue to be in effect for an additional 180 days if the agency gives notice of continuation in accordance with *Minnesota Statutes* § 14.35 (1986).

Robert Cook  
TACIP Board Chair

### Rules as Proposed (all new material)

#### 8775.0100 [Emergency] DEFINITIONS.

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

Subp. 2. **Applicable median income.** "Applicable median income" means the median gross income in Minnesota as estimated by the Bureau of the Census in the most recent annual announcement of the United States Department of Health and Human Services Family Support Administration, published in the Federal Register. These announcements are incorporated by reference.

Subp. 3. **Appropriate communication device.** "Appropriate communication device" means the communication device or devices that most efficiently allows use of the telephone system by a communication-impaired person.

Subp. 4. **Blind.** A person is "blind" if central visual acuity does not exceed 20/200 in the better eye with corrective lenses or, if greater than 20/200, visual acuity is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

Subp. 5. **Board.** "Board" means the Telecommunication Access for Communication-impaired Persons Board established in *Minnesota Statutes*, section 237.51.

Subp. 6. **Communication device.** "Communication device" means a device that when connected to a telephone enables a communication-impaired person to communicate with another person using the telephone system. A communication device includes a ring signaler, an amplification device, a telephone device for the deaf with auxiliary equipment the board considers necessary, and a telebraille unit.

Subp. 7. **Communication-impaired person.** "Communication-impaired person" means a person certified as deaf, severely hearing-impaired, hard-of-hearing, speech-impaired, or deaf and blind, by (1) determination of a qualified physician, audiologist, or speech and language pathologist, or (2) when made before the adoption of parts 8775.0100 to 8775.0600, determination of division staff under the authority of law or other rules relating to communication-impaired persons.

Subp. 8. **Deaf.** "Deaf" means the condition of a person whose hearing in both ears is impaired to the degree that the person is unable to understand speech, even when amplified. A deaf person requires use of a telephone device for the deaf to communicate effectively on the telephone.

Subp. 9. **Deaf and blind.** "Deaf and blind" means the conditions of a person who is (1) deaf, severely hearing impaired, or hard-of-hearing, and (2) blind or visually handicapped. A person affected by these conditions requires use of a telebraille unit or telephone device for the deaf with auxiliary equipment to communicate effectively on the telephone.

Subp. 10. **Division.** "Division" means the Deaf Services Division of the Minnesota Department of Human Services.

Subp. 11. **Economic hardship.** "Economic hardship" means an economic condition or level of subsistence on a household income that is at or below 60 percent of the applicable median income in the state.

Subp. 12. **Hard-of-hearing.** "Hard-of-hearing" means a condition of a person who has a significantly reduced ability to understand speech. Some of the effects of the impairment can be overcome with proper amplification. A person that is hard-of-hearing may require a communication device to communicate effectively on the telephone.

Subp. 13. **Household criteria.** For determining priority when initially distributing equipment or receiving more than one communication device, "household criteria" means the higher priority given for a household having more than one communication-impaired person or for a household with a communication-impaired person living alone.

Subp. 14. **Household income.** "Household income" means the total income of a communication-impaired person and immediate family living in the same residence. The immediate family includes spouse and minor children. However, the income of a minor child must not be included unless the minor is over 15 years of age. If the communication-impaired person is a minor child, then parents and siblings residing with the minor are immediate family. If a dependent minor child is temporarily living outside the family or custodial parent's residence, the household income is considered to be the income of the parents or custodial parent plus the income of minor siblings over the age of 15 and residing with the parents or custodial parent.

Subp. 15. **Household that has telephone service.** "Household that has telephone service" means a housing unit in which a communication-impaired person resides and in which telephone services are available, or for which telephone service has been applied for and a telephone number assigned, to that person as a condition of residing there.

Subp. 16. **Income.** "Income" means money received in the preceding calendar year from each of the following sources:

- A. money, wages, or salary;
- B. net income from nonfarm employment as defined for federal tax purposes;
- C. net income from farm self-employment as defined for federal taxes;
- D. social security or railroad retirement;
- E. supplemental social security income;
- F. public assistance or welfare payments;
- G. interest on savings or other investments that pay interest;
- H. dividend income from estates or trusts, or net rental income;
- I. veteran's payments, unemployment compensation payments, and workers' compensation payments;
- J. private or public employee pensions;

K. alimony, child support, regular contributions from persons not living in the household, and other periodic income. This definition of income comes from that of the Bureau of the Census and is interpreted according to its standards as published in "Consumer Income," series P-60, No. 156, Money, Income of Households, Families and Persons in the United States: 1985. These standards are incorporated by reference, are not subject to frequent change, and are located in the government publications reference department of the University of Minnesota and in the Minitex interlibrary loan system.

Subp. 17. **Resident of Minnesota.** "Resident of Minnesota" means an individual who lives in Minnesota or who has moved to Minnesota and intends to remain.

Subp. 18. **Severely hearing impaired.** "Severely hearing impaired" means a condition in which hearing in both ears is impaired to the degree that the affected person is unable to understand speech, even when amplified. These individuals require use of a telephone device for the deaf to communicate effectively on the telephone.

Subp. 19. **Significant visual impairment.** "Significant visual impairment" means a visual disability that does not constitute legal blindness but which constitutes a substantial handicap to employment or limits the person's ability to live independently, perform self-care activities, or grow and develop.

Subp. 20. **Special needs.** "Special needs" means the needs of an eligible person that may require that the person be given priority when initially distributing the equipment or be given more than one communication device because of severity of communication impairment or presence of multiple disabilities.

Subp. 21. **Speech-impaired.** "Speech-impaired" means a condition that renders a person physically incapable of speaking clearly. The severity of the impairment may vary; however, it renders speech on an ordinary telephone unintelligible or impossible and requires a communication device to communicate effectively on the telephone.

Subp. 22. **TACIP.** "TACIP" means telecommunication access for communication-impaired persons.

#### **8775.0200 [Emergency] PURPOSE AND CONSTRUCTION.**

The purpose of this chapter is to develop and implement a statewide program to distribute telephone communication devices to eligible communication-impaired persons and to create and maintain a message relay service for improving access to telephone communications services for communication-impaired persons. This chapter is to be liberally construed to further these purposes.

#### **8775.0300 [Emergency] ELIGIBILITY FOR TACIP SERVICES.**

Subpart 1. **Information provided.** On request, the division shall offer to a person an application form developed by the division and a brochure that describes the TACIP eligibility requirements and application process.

Subp. 2. **Application process.** The applicant shall complete the application form and return it to the division's regional service center for hearing-impaired people. An application may be made by the applicant, the applicant's spouse, or a person authorized by the applicant to act in the applicant's behalf.

Subp. 3. **Documenting, verifying, and reviewing eligibility.** The division shall verify the applicant's household income, age, and access to telephone service, and that the applicant is a communication-impaired person. When a condition of eligibility changes, the division may verify eligibility:

- A. In a timely manner, an applicant shall document income or authorize the division to verify the income. The division shall help an applicant or recipient obtain documents that the applicant does not possess and cannot obtain. Information previously verified and retained by the division need not be verified again unless the information no longer applies to current circumstances.

## Emergency Rules

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B. The division shall not request information about an applicant for or recipient of TACIP services that is not of public record from a source other than within the division without the applicant's or recipient's previous written consent. The division may request information about an applicant or recipient that is not of public record from the telephone companies by obtaining the applicant's or recipient's previous written consent on an application or recertification form. The division shall not provide third parties with access to information about an applicant's eligibility status or other case record information without the previous written consent of that applicant or recipient, except where access to specific case information is granted to agencies designated by the Minnesota Government Data Practices Act, *Minnesota Statutes*, chapter 13. Information designated as confidential by the Minnesota Government Data Practices Act may only be made available to agencies granted access under that law and must not be provided to an applicant, recipient, or third party.

C. The division shall inform the recipient of the recipient's responsibility to report permanent changes in circumstances that affect eligibility within ten days of each change.

Subp. 4. **Eligibility criteria.** To be eligible for the TACIP program, a person must be:

A. at least five years of age;

B. a communication-impaired person;

C. a resident in a household at or below the applicable median income in the state, except that a deaf and blind person applying for a telebraille unit may reside in a household that has a median income no more than 150 percent of the applicable median household income in the state; and

D. a resident in a household that has telephone service or that has applied for telephone service and has been assigned a number.

Subp. 5. **Notification of eligibility.** The division shall notify the applicant in a timely manner and in writing if the applicant is found eligible and, if the applicant is denied, the reasons for denial.

Subp. 6. **Determination of appropriate communication device.** The division shall determine the appropriate communication device for a recipient.

### 8775.0400 [Emergency] PRIORITY FOR INITIAL DISTRIBUTION OF COMMUNICATION DEVICES.

Subpart 1. **First priority: deaf and blind.** The first in priority are those eligible, deaf and blind persons having special needs, experiencing economic hardship, or meeting the household criteria standards.

Subp. 2. **Second priority: deaf.** The second in priority are those eligible, deaf persons having special needs, experiencing economic hardship, or meeting the household criteria standards.

Subp. 3. **Third priority: impaired speech.** The third in priority are those eligible, speech-impaired persons having special needs, experiencing economic hardship, or meeting the household criteria standards.

Subp. 4. **Fourth priority: deaf and visually impaired.** The fourth in priority are those eligible, deaf persons who have a significant visual impairment, and having special needs, experiencing economic hardship, or meeting the household criteria standards.

Subp. 5. **Fifth priority: hard-of-hearing.** The fifth in priority are those eligible, hard-of-hearing persons having special needs, experiencing economic hardship, or meeting the household criteria standards.

Subp. 6. **Sixth priority: others without special needs.** The sixth in priority are those eligible, communication-impaired persons having no special needs, not experiencing economic hardship, and not meeting the household criteria standards.

### 8775.0500 [Emergency] HOUSEHOLDS ELIGIBLE TO RECEIVE SEVERAL DEVICES.

Subpart 1. **Deaf.** A communication-impaired person who is deaf or severely hearing impaired is eligible for a telephone device for the deaf and a ring signaler.

Subp. 2. **Deaf and blind.** A communication-impaired person who is deaf and blind is eligible to receive the use of a telephone device for the deaf with auxiliary equipment approved by the board and necessary for efficient communication.

Subp. 3. **Two or more eligible persons.** If a household contains more than one eligible communication-impaired person with various communication impairments, the board may approve more than one telephone device as necessary for efficient communication.

Subp. 4. **Hard-of-hearing.** A communication-impaired person who is hard-of-hearing is eligible for a ring signaler and amplification device if both devices are necessary for efficient communication.

### 8775.0600 [Emergency] APPEALS.

An applicant who is denied TACIP service or a recipient whose TACIP service is terminated may appeal. The division shall provide an informal appeal process to resolve the matter. If the matter is not resolved through the informal process, the aggrieved party may have a hearing before the board. An applicant may introduce evidence relevant to the issues on appeal at the hearing.

# 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.

## Minnesota Historical Society

### State Review Board Regular Meeting

A meeting of the State Review Board will be held on Thursday, September 8, 1988. The Board will meet for dinner at 5:30 and consideration of the meeting's agenda will begin at 7:00 p.m. in the Auditorium, Fort Snelling History Center, Fort Snelling, Minnesota.

## Department of Human Services

### Notice of Hospital Cost Index

Minnesota Statutes 256.969, subdivision 1 and Minnesota Rules, part 9500.1120 require the establishment of a Hospital Cost Index (HCI) for rate setting purposes for inpatient hospital services under the General Assistance Medical Care and Medical Assistance Programs. The inflation forecasts provided below were obtained from the Data Resources, Inc. *Health Care Costs* as published in the second quarter of 1988 using the percent moving average. The cost category weights were provided by the Minnesota Hospital Association. The HCI will be used to adjust the rates of hospitals whose fiscal year begins during the fourth quarter of 1988.

Comments concerning the HCI may be forwarded to the following address:

Paul Olson, Supervisor  
Hospital Reimbursement Section  
Audit Division  
444 Lafayette Road  
St. Paul, Minnesota 55155-3836

Cost Category	Weight	Percent	Weighted Percent
Salaries	.530	5.1	2.70
Employee Benefits	.091	4.6	.42
Medical Fees (Medical Care Service)	.031	7.2	.22
Raw Food	.014	4.5	.06
Medical Supplies (Medical Commodities)	.106	3.7	.39
Pharmaceuticals	.041	3.7	.15
Utilities	.028	5.5	.15
Repairs/Maintenance	.015	4.0	.06
Insurance*	.014	4.0	.06
Other Operating	.130	4.0	.52
	1.000		4.73
		Technology =	1.00
		HCI =	5.7%

\*Excludes Malpractice

## Department of Human Services

### Health Care Management Division

### Notice of Solicitation of Outside Information or Opinions Regarding Amendments to Rules Governing Medical Assistance Health Services

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 medical assistance health services, *Minnesota Rules*, parts 9505.0221 and 9505.0365.

## Official Notices

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The adoption of the amendments to the rules is authorized by *Minnesota Statutes*, section 256B.04, subdivision 2.

The proposed amendments set standards for determining eligibility of equipment, supplies, or services ordered by a physician for medical assistance payment if the physician supplies the equipment or is affiliated with or receives direct or indirect payment from the provider of the equipment, supplies, or services. The amendment is necessary to clarify the interpretation of the rule.

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 55155-3816

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.

Dated: 22 August 1988

Eleanor E. Weber  
Assistant Director, Rules Division

## Department of Jobs and Training

### State Job Training Office JTPA Forum

The United States Department of Labor has begun a comprehensive review of the Job Training Partnership Act (JTPA) program analyzing experiences obtained from the first five years of operation and plotting a course for the future of JTPA. A White Paper, which was prepared by the Department of Labor, is serving as a framework for this study.

An important part of the review process is the input which the Department of Labor hopes to receive from various constituencies. The State Job Training Office will be providing a forum to obtain opinions on JTPA. The date and site of the meeting will be as follows:

DATE: **Friday, September 23, 1988**  
TIME: **10:00 A.M.**  
PLACE: **McGuire's Inn**  
**County Road E and Lexington Avenue**  
**Arden Hills, MN**

The meeting will focus attention on four questions:

1. Whom should the program serve?
2. What services should be provided and how can their quality improve?
3. How can management tools be enhanced?
4. Should JTPA be coordinated more closely with related programs?

Individuals wishing to obtain a copy of the White Paper should contact Mr. Larry Eisenstadt, State Job Training Office, 612/296-6073.

Individuals wishing to testify are to contact Mr. Eisenstadt, by September 15th, for a scheduled time. Individuals wishing to submit written comments should submit them to Larry Eisenstadt by September 30 to:

State Job Training Office  
Minnesota Department of Jobs and Training  
690 American Center Building  
150 East Kellogg Blvd.  
St. Paul, Minnesota 55101

## **Department of Natural Resources**

### **Notice of Sale of State Metallic Minerals Leases**

NOTICE IS HEREBY GIVEN that a sale of leases to prospect for, mine and remove metallic minerals in trust fund lands, lands and minerals forfeited for nonpayment of taxes, lands and minerals otherwise acquired, and other state-owned land under the jurisdiction of the Commissioner of Natural Resources, and located in portions of Aitkin, Beltrami, Carlton, Itasca, Koochiching, Lake, Lake of the Woods, Marshall, Norman, Roseau and St. Louis counties, is scheduled to be held on September 29, 1988 at 4:00 p.m. The sale will take place in the auditorium at Ironworld U.S.A., Box 392, Highway 169, Chisholm, Minnesota in conjunction with the Fifth Annual Current Mineral Activities Forum. No land or water areas within the Boundary Waters Canoe Area Wilderness or Voyagers National Park are included in this lease sale.

The Commissioner of Natural Resources, c/o Division of Minerals, Box 45, 500 Lafayette Road, St. Paul, Minnesota 55155-4045, will receive sealed bids and applications for leases covering minerals in state lands, in accordance with *Minnesota Rules*, parts 6125.0100 through 6125.0700 (as amended May 1988), the metallic minerals rules, issued under the authority of *Minnesota Statutes* Sections 93.08-93.12 and 93.25.

Each application and bid, together with a certified check, cashier's check, or bank money order, payable to the State Treasurer in the sum of \$100.00, must be submitted in a bid envelope obtained from the Commissioner. All bids must be received by the Commissioner, at the offices of the Division of Minerals, Fourth Floor, DNR Building, 500 Lafayette Road, St. Paul before 4:30 p.m. of September 28, 1988.

On September 29, at the time specified, the Commissioner or his representative, together with a designated member of the State Executive Council, will publicly open the bids and announce the amount of each bid separately. At a subsequent time, leases will be awarded by the Commissioner, with the approval of the State Executive Council, to the highest bidder for the respective mining units, but no bids will be accepted that do not equal or exceed the base royalty rates set forth in the rules or that do not comply with all provisions of the rules. The right is reserved to the State, through the Executive Council, to reject any or all bids.

The purpose of Minnesota's metallic minerals rules is to promote and regulate the prospecting for, mining and removal of metallic minerals on state-owned and state-administered lands. These rules, and the leases issued under the rules, authorize exploration and development of these minerals and impose certain requirements on the lessee. The requirements include: the payment of minimum rentals which increase with the passage of time, the payment of royalty for all ore mined and removed, the submission of data and other reports, and the addressing of certain environmental considerations. In addition, the state lessee must comply with all applicable regulatory laws.

In the absence of satisfactorily demonstrated past technical and financial competence to perform under similar circumstances, a bidder may be required to provide evidence of technical and financial competence to perform under the state's lease to prospect for, mine and remove metallic minerals. The information requested by the Commissioner must be submitted within 30 days of the date of the request. The State, through the Executive Council, may refuse to award a lease to any bidder not supplying satisfactory evidence of technical and financial competence to perform under the state lease.

Upon the award of a lease, the check submitted with the bid will be deposited with the State Treasurer as a fee for the lease. All bids not accepted will become void, and the checks accompanying such bids will be returned to the respective bidders.

Application and bid forms, bid envelopes, instructions on how bids are to be submitted, copies of the rules (*Minnesota Rules*, parts 6125.0100-6125.0700, as amended May 1988) and copies of the Mining Unit Book, listing the land areas designated by the Commissioner as mining units, may be obtained from William C. Brice, Director, Division of Minerals, Box 45, DNR Building, 500 Lafayette Road, St. Paul, Minnesota 55155-4045.

Application for each copy of the Mining Unit Book must be accompanied by a check or money order, payable to the State Treasurer in the sum of \$25.00, as a fee for such Mining Unit Book, plus \$1.50 State of Minnesota Sales Tax. Unit books will also be available for inspection at the Hibbing and St. Paul offices of the Division of Minerals.

Dated: 29 August 1988

Joseph N. Alexander, Commissioner  
Department of Natural Resources

## **Minnesota Pollution Control Agency**

### **Division of Hazardous Waste**

#### **Notice of Intent to Solicit Outside Information Regarding Proposed Amendments to Minnesota Rules Chapters 7001 and 7045 Governing the Management of Hazardous Waste**

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is seeking information or opinions from outside sources in preparing to propose the amendment of rules governing the management of hazardous waste. Specifically, the MPCA is considering proposing amendments regarding the following:

1. Miscellaneous hazardous waste management units. The amendments would enable the MPCA to issue permits to miscellaneous waste management units not covered under the existing rules.
2. Corrective action and permitting for hazardous waste facilities. The amendments would include corrective action provisions for releases beyond the facility boundary.
3. A technical correction to the listing of spent pickle liquor from steel finishing operations. The correction would clarify that the listing for spent pickle liquor from steel finishing operations (hazardous waste no. K062) applies only to wastes generated by iron and steel facilities.
4. A technical correction to the definition of hazardous waste. The amendments would clarify the intent of the definition.

The MPCA is considering these amendments in response to amendments to the federal hazardous waste regulations promulgated by the U.S. Environmental Protection Agency on December 10, 1987, December 1, 1987, August 3, 1987, and June 5, 1987, respectively. The amendment of the MPCA rules is authorized by *Minnesota Statutes* § 116.07, subd. 4 (1986).

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

Patrick F. Carey  
Minnesota Pollution Control Agency  
Hazardous Waste Division  
520 Lafayette Road North  
St. Paul, Minnesota 55155  
Telephone: 612/296-7767

Oral statements 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 September 29, 1988. Any written materials received by the MPCA shall become part of the rulemaking record in the event that the rule is amended.

Gerald L. Willet  
Commissioner

## **Teachers Retirement Association**

### **Notice of Regular Meeting**

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Thursday, September 15, 1988 at 9:00 a.m. in Suite 500, Gallery Building, 17 West Exchange Street, St. Paul, MN to consider matters which may properly come before the Board.

## **Minnesota Amateur Sports Commission**

### **Department of Trade & Economic Development**

#### **Announcement of the Minnesota Amateur Sports Commission's Capital Bonding Application Process**

The Minnesota Amateur Sports Commission (MASC) will be reviewing applications for major amateur sport facility projects at the Commission's September 22, 1988 meeting.

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## State Contracts and Advertised Bids

The MASC makes recommendations to the Minnesota Legislature for sport facilities capital bonding. The Minnesota Legislature makes the final determinations on all project funding. The MASC has developed financial and long-range use criteria for sport facility proposals.

For further information and application materials, please write the Minnesota Amateur Sports Commission at: 900 American Center Building, 150 East Kellogg Blvd., St. Paul, MN 55101-1421.

The Minnesota Amateur Sports Commission was created by the 1987 Minnesota Legislature to create economic development through sports and to increase amateur sport opportunities for the citizens of Minnesota.

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## 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.

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### 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:** Electrical work  
**Contact:** Juanita Steffen 612-297-3830  
**Bid due date at 2pm:** August 30  
**Agency:** Jobs & Training  
**Deliver to:** St. Paul  
**Requisition #:** 21200 89993

**Commodity:** Hardwood green chips  
**Contact:** Joyce Dehn 612-296-2621  
**Bid due date at 2pm:** September 13  
**Agency:** Correctional Facility  
**Deliver to:** Shakopee  
**Requisition #:** 78640 01805

**Commodity:** Aerial work platform  
**Contact:** Doug Thompson 612-296-3775  
**Bid due date at 2pm:** September 1  
**Agency:** Transportation  
**Deliver to:** Various  
**Requisition #:** 79382 01515

**Commodity:** BTU meter/chilled & heating water  
**Contact:** Brenda Thielen 612-296-9075  
**Bid due date at 2pm:** August 31  
**Agency:** Community College  
**Deliver to:** Cambridge  
**Requisition #:** 02310 16336

**Commodity:** Compaq 38625 Cad workstation  
**Contact:** Mary Jo Bruski 612-296-3772  
**Bid due date at 2pm:** September 6  
**Agency:** Mn/DOT—Aeronautics  
**Deliver to:** St. Paul  
**Requisition #:** 79000 91843

**Commodity:** State Patrol uniforms—Rebid  
**Contact:** Dale Meyer 612-296-3772  
**Bid due date at 2pm:** September 1  
**Agency:** State Patrol  
**Deliver to:** Various  
**Requisition #:** Price Contract

**Commodity:** Passenger van  
**Contact:** Bernie Vogel 612-296-3778  
**Bid due date at 2pm:** September 6  
**Agency:** Academy for the Deaf  
**Deliver to:** Faribault  
**Requisition #:** 37001 90137

**Commodity:** Office chairs  
**Contact:** Linda Parkos 612-296-3725  
**Bid due date at 2pm:** August 31  
**Agency:** Administration—InterTechnology Group  
**Deliver to:** St. Paul  
**Requisition #:** 02410 90067

**Commodity:** Security management/monitoring system—rebid #2  
**Contact:** Pat Anderson 612-296-3777  
**Bid due date at 2pm:** September 6  
**Agency:** Transportation  
**Deliver to:** Detroit Lakes  
**Requisition #:** 79400 02852 2

**Commodity:** Bottled water service in Lansing, MN  
**Contact:** Joyce Dehn 612-296-2621  
**Bid due date at 2pm:** September 8  
**Agency:** Pollution Control  
**Deliver to:** St. Paul  
**Requisition #:** 32300 18547

**Commodity:** VHS recorders  
**Contact:** Pat Anderson 612-296-3777  
**Bid due date at 2pm:** September 2  
**Agency:** State University  
**Deliver to:** St. Cloud  
**Requisition #:** 26073 20642

## State Contracts and Advertised Bids

**Commodity:** Paradyne modems & analysis equipment  
**Contact:** Mary Jo Bruski 612-296-3772  
**Bid due date at 2pm:** September 6  
**Agency:** Jobs & Training  
**Deliver to:** St. Paul  
**Requisition #:** 21200 19165

**Commodity:** Rental of Xerox 1090 or Kodak 250AF  
**Contact:** Teresa Ryan 612-296-7556  
**Bid due date at 2pm:** September 6  
**Agency:** Waste Management Board  
**Deliver to:** St. Paul  
**Requisition #:** 99650 89042

**Commodity:** Purchase of Xerox 9500 copier  
**Contact:** Teresa Ryan 612-296-7556  
**Bid due date at 2pm:** September 6  
**Agency:** Public Service  
**Deliver to:** St. Paul  
**Requisition #:** 80400 03880

**Commodity:** Electrical supplies  
**Contact:** Ed Shank 612-296-3770  
**Bid due date at 2pm:** September 7  
**Agency:** Various  
**Deliver to:** Various  
**Requisition #:** Price Contract

**Commodity:** 700 gallon domestic hot water storage tank  
**Contact:** Brenda Thielen 612-296-9075  
**Bid due date at 2pm:** September 2  
**Agency:** Military Affairs Department  
**Deliver to:** St. Paul  
**Requisition #:** 01000 05593

**Commodity:** Purchase of Mita DC 1205 or Xerox 1012  
**Contact:** Teresa Ryan 612-297-7556  
**Bid due date at 2pm:** September 2  
**Agency:** DNR  
**Deliver to:** Various  
**Requisition #:** 29001 13277

## Contract Awards—Materials Management Division

**Item:** Computer equipment  
**Req.#:** 12500 19413 01  
**Awarded to:** Paradigm Techn. Inc., New Brighton, MN  
**Awarded amount:** \$12,700.00  
**Awarded date:** August 18, 1988  
**Expir/deliv date:** September 17, 1988  
**Shipped to:** MN Department of Health

**Item:** Computer equipment  
**Req.#:** 36000 12392 02  
**Awarded to:** GIS Systems (DBA), Minneapolis, MN  
**Awarded amount:** \$31,804.40  
**Awarded date:** August 18, 1988  
**Expir/deliv date:** August 30, 1988  
**Shipped to:** Board of Vocational-Technical Education

**Item:** Computer equipment  
**Req.#:** 79000 90657 01  
**Awarded to:** Barrister Information Systems, Chicago, IL  
**Awarded amount:** \$69,725.00  
**Awarded date:** August 18, 1988  
**Expir/deliv date:** September 17, 1988  
**Shipped to:** MN Department of Transportation

**Item:** Principal/pay equipment lease option/buy  
**Req.#:** 26071 18279 01  
**Awarded to:** Pitney Bowes, Minneapolis, MN  
**Awarded amount:** \$15,431.40  
**Awarded date:** August 19, 1988  
**Expir/deliv date:** September 1, 1988  
**Shipped to:** Mankato State University

**Item:** Furniture office  
**Req.#:** 26071 18212 01  
**Awarded to:** Johnsons P. M. Inc., St. Paul, MN  
**Awarded amount:** \$5,800.00  
**Awarded date:** August 19, 1988  
**Expir/deliv date:** December 16, 1988  
**Shipped to:** Mankato State University

**Item:** Life saving equipment marine  
**Req.#:** 29007 10118 01  
**Awarded to:** Stearns Manufacturing Co., Sauk Rapids, MN  
**Awarded amount:** \$5,431.97  
**Awarded date:** August 19, 1988  
**Expir/deliv date:** September 20, 1988  
**Shipped to:** DNR—Northern Service Center

**Item:** Elevator work  
**Req.#:** 55101 09132 01  
**Awarded to:** Apollo Elevator Co., Eagan, MN  
**Awarded amount:** \$7,000.00  
**Awarded date:** August 19, 1988  
**Expir/deliv date:**  
**Shipped to:** Fergus Falls Regional Treatment Center

**Item:** Office type sound recording  
**Req.#:** 99690 90119 01  
**Awarded to:** Precision Business, Bloomington, MN  
**Awarded amount:** \$5,900.00  
**Awarded date:** August 19, 1988  
**Expir/deliv date:** August 30, 1988  
**Shipped to:** Office of Administrative Hearings

**Item:** Library furniture  
**Req.#:** 02310 16187 01  
**Awarded to:** Competitive Edge Office, St. Paul, MN  
**Awarded amount:** \$21,497.75  
**Awarded date:** August 22, 1988  
**Expir/deliv date:** November 30, 1988  
**Shipped to:** Minneapolis Community College

**Item:** Furniture office  
**Req.#:** 02410 90020 01  
**Awarded to:** Johnsons P. M. Inc., St. Paul, MN  
**Awarded amount:** \$6,248.00  
**Awarded date:** August 22, 1988  
**Expir/deliv date:** October 31, 1988  
**Shipped to:** Information Management Bureau

**Item:** Analyzers for drug of abuse  
**Req.#:** 07300 50761 01  
**Awarded to:** Syva Co., Palo Alto, CA  
**Awarded amount:** \$25,000.00  
**Awarded date:** August 22, 1988  
**Expir/deliv date:** October 22, 1988  
**Shipped to:** Department of Public Safety

**Item:** Laboratory supplies  
**Req.#:** 26071 18224 01  
**Awarded to:** Terbush Alan, El Monte, CA  
**Awarded amount:** \$18,928.00  
**Awarded date:** August 22, 1988  
**Expir/deliv date:** September 23, 1988  
**Shipped to:** Mankato State University

## State Contracts and Advertised Bids

**Item:** Video CRT equipment  
**Req.#:** 27000 50486 02  
**Awarded to:** National Camera  
Exchange, Golden Valley, MN  
**Awarded amount:** \$7,473.24  
**Awarded date:** August 22, 1988  
**Expir/deliv date:** September 5, 1988  
**Shipped to:** Minneapolis Community  
College

**Item:** Repair alteration to building &  
**Req.#:** 27000 47110 01  
**Awarded to:** Mesabi Bituminous Inc.,  
Gilbert, MN  
**Awarded amount:** \$14,800.00  
**Awarded date:** August 22, 1988  
**Expir/deliv date:** August 29, 1988  
**Shipped to:** Vermilion Community  
College

**Item:** Electronic component parts &  
accessories  
**Req.#:** 79050 23103 01  
**Awarded to:** Traffic Systems  
Corporation, Edina, MN  
**Awarded amount:** \$65,200.00  
**Awarded date:** August 22, 1988  
**Expir/deliv date:** December 1, 1988  
**Shipped to:** Mn/DOT, Electrical  
Services

**Item:** Compressor & vacuum pump  
**Req.#:** 79382 01509 01  
**Awarded to:** Modern Equipment Co.,  
Minneapolis, MN  
**Awarded amount:** \$7,990.00  
**Awarded date:** August 22, 1988  
**Expir/deliv date:** August 31, 1988  
**Shipped to:** MN Department of  
Transportation

**Item:** Services other professional  
technical  
**Req.#:** 04261 91489 01  
**Awarded to:** Minnesota News Network,  
St. Paul, MN  
**Awarded amount:** \$10,125.00  
**Awarded date:** August 23, 1988  
**Expir/deliv date:** September 1, 1988  
**Shipped to:** MN Department of  
Agriculture

**Item:** Steel galvanized phosphate coated  
**Req.#:** 07700 46961 01  
**Awarded to:** Ryerson & Son Inc.,  
Minneapolis, MN  
**Awarded amount:** \$444,475.00  
**Awarded date:** August 23, 1988  
**Expir/deliv date:** October 1, 1988  
**Shipped to:** MN Correctional Facility

**Item:** Material uniform DNR & State  
Patrol  
**Req.#:** 07500 51624 01  
**Awarded to:** Raeford Uniforms Fabrics,  
New York, NY  
**Awarded amount:** \$26,760.00  
**Awarded date:** August 23, 1988  
**Expir/deliv date:** October 30, 1988  
**Shipped to:** Various locations

**Item:** Autos trucks vans for clients only  
**Req.#:** 21607 71756 01  
**Awarded to:** Northtown Nissan, Fridley,  
MN  
**Awarded amount:** \$13,559.80  
**Awarded date:** August 23, 1988  
**Expir/deliv date:** August 26, 1988  
**Shipped to:** Various locations

**Item:** Athletic & sporting equipment  
**Req.#:** 26074 12311 01  
**Awarded to:** Daktronics Inc., Brookings,  
SD  
**Awarded amount:** \$8,580.00  
**Awarded date:** August 23, 1988  
**Expir/deliv date:** September 1, 1988  
**Shipped to:** Winona State University

**Item:** Janitorial & refuse disposal  
service  
**Req.#:** 26074 11604 01  
**Awarded to:** Greenline Disposal,  
Cannon Falls, MN  
**Awarded amount:** \$7,532.04  
**Awarded date:** August 23, 1988  
**Expir/deliv date:**  
**Shipped to:** Winona State University

**Item:** Repair alteration to building &  
**Req.#:** 27154 46809 01  
**Awarded to:** Brenny J. B. Co., Eden  
Prairie, MN  
**Awarded amount:** \$9,787.00  
**Awarded date:** August 23, 1988  
**Expir/deliv date:** November 23, 1988  
**Shipped to:** Lakewood Community  
College

**Item:** Athletic & sporting equipment &  
supplies  
**Req.#:** 27156 10382 01  
**Awarded to:** Sports Imports, Columbus,  
OH  
**Awarded amount:** \$6,317.60  
**Awarded date:** August 23, 1988  
**Expir/deliv date:** September 11, 1988  
**Shipped to:** Normandale Community  
College

**Item:** Footwear men  
**Req.#:** 29007 10122 01  
**Awarded to:** Continental Safety  
Equipment, Eagan, MN  
**Awarded amount:** \$7,037.62  
**Awarded date:** August 23, 1988  
**Expir/deliv date:** September 16, 1988  
**Shipped to:** DNR—Northern Service  
Center

**Item:** Chemical industrial  
**Req.#:** 29005 11521 01  
**Awarded to:** Ashland Chemical Co.,  
Shakopee, MN  
**Awarded amount:** \$21,285.00  
**Awarded date:** August 23, 1988  
**Expir/deliv date:** September 1, 1988  
**Shipped to:** Various locations

**Item:** Repair mechanical vehicle  
**Req.#:** 43000 10193 01  
**Awarded to:** Lake Superior Museum of,  
Duluth, MN  
**Awarded amount:** \$52,250.00  
**Awarded date:** August 23, 1988  
**Expir/deliv date:** October 15, 1988  
**Shipped to:** Iron Range Interpretation  
Center

**Item:** Truck hd over 27,000 GVW  
**Req.#:** 79382 01507 01  
**Awarded to:** Boyer Ford Trucks,  
Minneapolis, MN  
**Awarded amount:** \$469,665.00  
**Awarded date:** August 23, 1988  
**Expir/deliv date:** April 1, 1989  
**Shipped to:** Mn/DOT, Central Shop

**Item:** Truck hd over 27,000 GVW  
**Req.#:** 79382 01508 01  
**Awarded to:** Boyer Ford Trucks,  
Minneapolis, MN  
**Awarded amount:** \$1,043,311.50  
**Awarded date:** August 23, 1988  
**Expir/deliv date:** April 1, 1989  
**Shipped to:** Mn/DOT, Central Shop

## State Contracts and Advertised Bids

**Item:** Service other purchased  
**Req.#:** 79990 00183 01  
**Awarded to:** MacQueen Equipment Inc.,  
St. Paul, MN  
**Awarded amount:** \$7,480.00  
**Awarded date:** August 23, 1988  
**Expir/deliv date:**  
**Shipped to:** Mn/DOT, Central Shop

**Item:** Maintenance contract equipment  
only  
**Req.#:** 02443 91613 02  
**Awarded to:** Tronitech Inc.,  
Indianapolis, IN  
**Awarded amount:** \$14,100.00  
**Awarded date:** August 24, 1988  
**Shipped to:** State of MN

**Item:** Furniture school  
**Req.#:** 26072 01620 01  
**Awarded to:** Virco Manufacturing  
Corporation  
**Awarded amount:** \$7,896.00  
**Awarded date:** August 24, 1988  
**Expir/deliv date:** October 30, 1988  
**Shipped to:** Moorhead State University

**Item:** Micro graphic equipment  
**Req.#:** 27154 46802 01  
**Awarded to:** Mid American Business  
System, Mpls., MN  
**Awarded amount:** \$5,428.00  
**Awarded date:** August 24, 1988  
**Expir/deliv date:** September 1, 1988  
**Shipped to:** Lakewood Community  
College

**Item:** Video CRT equipment  
**Req.#:** 27000 50478 01  
**Awarded to:** Audio Visual Wholesalers,  
Plymouth, MN  
**Awarded amount:** \$5,266.55  
**Awarded date:** August 24, 1988  
**Expir/deliv date:** September 30, 1988  
**Shipped to:** Minneapolis Community  
College

**Item:** Video CRT equipment  
**Req.#:** 27000 50477 01  
**Awarded to:** Alpha Video & Audio,  
Bloomington, MN  
**Awarded amount:** \$7,914.00  
**Awarded date:** August 24, 1988  
**Expir/deliv date:** October 30, 1988  
**Shipped to:** Minneapolis Community  
College

**Item:** Musical instrument  
**Req.#:** 27146 89001 01  
**Awarded to:** Schmitt Music Company,  
Brooklyn Center, MN  
**Awarded amount:** \$7,695.00  
**Awarded date:** August 24, 1988  
**Expir/deliv date:** September 30, 1988  
**Shipped to:** Worthington Community  
College

**Item:** Fish hatchery equipment  
**Req.#:** 29000 50524 01  
**Awarded to:** Engineered Products,  
Philomath, OR  
**Awarded amount:** \$20,924.00  
**Awarded date:** August 24, 1988  
**Expir/deliv date:** September 23, 1988  
**Shipped to:** DNR—Southern Service  
Center

**Item:** Computer equipment  
**Req.#:** 42701 12753 01  
**Awarded to:** Falcon Systems Inc.,  
Bethesda, MD  
**Awarded amount:** \$40,603.00  
**Awarded date:** August 24, 1988  
**Expir/deliv date:** September 25, 1988  
**Shipped to:** Department of Labor &  
Industry

**Item:** Cutting edges and blades  
**Req.#:** 79100 03888 02  
**Awarded to:** Paper Calmenson  
Company, St. Paul, MN  
**Awarded amount:** \$7,068.20  
**Awarded date:** August 24, 1988  
**Expir/deliv date:** October 3, 1988  
**Shipped to:** MN Department of  
Transportation

**Item:** Maintenance contract equipment  
only  
**Req.#:** 79000 90896 01  
**Awarded to:** Wilson Electric Company,  
Mpls., MN  
**Awarded amount:** \$58,212.00  
**Awarded date:** August 24, 1988  
**Shipped to:** Mn/DOT, Aeronautics

**Item:** Cutting edges and blades  
**Req.#:** 79500 03147 01  
**Awarded to:** Carlson Lake State  
Equipment, Burnsville, MN  
**Awarded amount:** \$5,991.80  
**Awarded date:** August 24, 1988  
**Expir/deliv date:** October 3, 1988  
**Shipped to:** MN Department of  
Transportation

## Department of Administration: Printing & Mailing Services

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

**Commodity:** Return mailing labels,  
10M adhesive backing, 4"x2", type to  
set, 1-sided  
**Contact:** Printing Buyer's Office  
**Bids are due:** August 31  
**Agency:** Children's Trust Fund  
**Deliver to:** St. Paul  
**Requisition #:** 1124

**Commodity:** Labels, 15M, 4"x2",  
camera ready, butt-cut, 1-sided  
**Contact:** Printing Buyer's Office  
**Bids are due:** August 31  
**Agency:** Health Department  
**Deliver to:** Minneapolis  
**Requisition #:** 1155

**Commodity:** Poster, 4M 8½"x11", negs  
furnished, 1-sided; and brochure,  
6½M, 7"x9" 1-fold negs furnished, 2-  
sided  
**Contact:** Printing Buyer's Office  
**Bids are due:** August 31  
**Agency:** Health Department  
**Deliver to:** Minneapolis  
**Requisition #:** 1153 & 1154

## State Contracts and Advertised Bids

**Commodity:** License application and registration renewal, 10"x5½" overall, fan fold, 12M 5-part form, type to set, 1-sided; and License application, registration renewal, type to set, 2M 10"x5½" fan fold, 5-part form  
**Contact:** Printing Buyer's Office  
**Bids are due:** September 1  
**Agency:** Health Department  
**Deliver to:** Minneapolis  
**Requisition #:** 1318 & 1319

**Commodity:** Household report form, 700M continuous, 4 pages 2-parts, 8½"x11"  
**Contact:** Printing Buyer's Office  
**Bids are due:** September 6  
**Agency:** Human Services Department  
**Deliver to:** St. Paul  
**Requisition #:** 0884

**Commodity:** Validation strips, 6 million with 3 million 2-up, 6½x7/16"  
**Contact:** Printing Buyer's Office  
**Bids are due:** September 6  
**Agency:** Public Safety Department  
**Deliver to:** St. Paul  
**Requisition #:** 820

**Commodity:** Sales tax envelopes, various colors, total quantity 1,220,000, 7⅝"x37/8", camera ready  
**Contact:** Printing Buyer's Office  
**Bids are due:** September 6  
**Agency:** Revenue Department  
**Deliver to:** St. Paul  
**Requisition #:** 0999

**Commodity:** Window envelopes, 1,950,000, 8⅜"x4¼"  
**Contact:** Printing Buyer's Office  
**Bids are due:** September 6  
**Agency:** Revenue Department  
**Deliver to:** St. Paul  
**Requisition #:** 0998

**Commodity:** All-terrain, snowmobile and watercraft decals and registration cards, 6 various sizes and specifications, 472M  
**Contact:** Printing Buyer's Office  
**Bids are due:** September 6  
**Agency:** Department of Natural Resources  
**Deliver to:** St. Paul  
**Requisition #:** 696-7-8-9-700-1-2-3-4

### Contract Awards—Printing & Mailing Services

**Item:** 1988 package XM  
**Req.#:** 0588  
**Awarded to:** Viking Press, Eden Prairie  
**Amount:** \$19,976.00  
**Date:** August 23  
**Deliver to:** Department of Revenue, St. Paul  
**Delivery date:** As requested

**Item:** Return envelope  
**Req.#:** 0671  
**Awarded to:** Quality Park Products, St. Paul  
**Amount:** \$430.92  
**Date:** August 23  
**Deliver to:** Human Services Department, St. Paul  
**Delivery date:** 30 days

**Item:** Mailer envelope  
**Req.#:** 0672  
**Awarded to:** Quality Park Products, St. Paul  
**Amount:** \$513.00  
**Date:** August 23  
**Deliver to:** Human Services Department, St. Paul  
**Delivery date:** 30 days

**Item:** MV sticker envelope  
**Req.#:** 0082  
**Awarded to:** Mackay Envelope Corporation, Mpls.

**Amount:** \$3,385.00  
**Date:** August 24  
**Deliver to:** Public Safety Department, St. Paul  
**Delivery date:** 15-20 working days

**Item:** D/L Envelope  
**Req.#:** 0111  
**Awarded to:** Mackay Envelope Corporation, Mpls.  
**Amount:** \$495.72  
**Date:** August 24  
**Deliver to:** Public Safety Department, St. Paul  
**Delivery date:** 15-20 working days

**Item:** Certificate of birth  
**Req.#:** 0253  
**Awarded to:** Custom Business Forms, Mpls.  
**Amount:** \$6,623.00  
**Date:** August 24  
**Deliver to:** Health Department, Mpls.  
**Delivery date:** As requested

**Item:** Voter registration display bins  
**Req.#:** 0308  
**Awarded to:** Process Displays/Printing, Mpls.  
**Amount:** \$2,644.00  
**Date:** August 23  
**Deliver to:** Secretary of State, St. Paul  
**Delivery date:** As requested

**Item:** Cigarette tax stamps  
**Req.#:** 0586  
**Awarded to:** The Meyercord Company, Carol Stream, IL  
**Amount:** \$45,938.70  
**Date:** August 24  
**Deliver to:** Revenue Department, St. Paul  
**Delivery date:** As requested

**Item:** Minnesota campaign manual  
**Req.#:** 0562  
**Awarded to:** House of Print, Madelia  
**Amount:** \$657.00  
**Date:** August 24  
**Deliver to:** Secretary of State, St. Paul  
**Delivery date:** As requested

**Item:** Lakewood Leader Tabloid Newspaper  
**Req.#:** 0666  
**Awarded to:** Lillie Newspapers, Inc., N. St. Paul  
**Amount:** \$1,475.56  
**Date:** August 24  
**Deliver to:** Lakewood Community College, White Bear Lake  
**Delivery date:** 3 days

**Item:** Nordin News  
**Req.#:** 0508  
**Awarded to:** Manney, Inc., Hibbing  
**Amount:** \$3,927.50

## State Contracts and Advertised Bids

**Date:** August 23

**Deliver to:** Giants Ridge, Biwabik

**Delivery date:** 7-10 days

**Item:** Stool form—enteric bacteria

**Req.#:** 0516

**Awarded to:** Georgene Bergstrom  
Company, Mpls.

**Amount:** \$524.75

**Date:** August 24

**Deliver to:** Health Department, Mpls.

**Delivery date:** 30 days

**Item:** MARUC stamps

**Req.#:** 0507

**Awarded to:** Universal Press and Label,  
Mpls.

**Amount:** \$1,985.00

**Date:** August 24

**Deliver to:** Transportation Department,  
St. Paul

**Delivery date:** 6-7 weeks

**Item:** Explore MN region travel  
directories

**Req.#:** 0579

**Awarded to:** Photo Mechanical Services,  
Mpls.

**Amount:** \$8,900.00

**Date:** August 23

**Deliver to:** Tourism, St. Paul

**Delivery date:** 10 working days

**Item:** Envelope for class schedule

**Req.#:** 0715

**Awarded to:** Heinrich Envelope  
Corporation, Mpls.

**Amount:** \$298.12

**Date:** August 24

**Deliver to:** Public Safety Department,  
St. Paul

**Delivery date:** As requested

**Item:** Envelopes

**Req.#:** 0716

**Awarded to:** Printing Solutions,  
Bloomington

**Amount:** \$1,720.00

**Date:** August 23

**Deliver to:** Public Safety Department,  
St. Paul

**Delivery date:** 15 days

**Item:** Class schedule

**Req.#:** 0717

**Awarded to:** Twin City Litho, Roseville

**Amount:** \$2,620.00

**Date:** August 24

**Deliver to:** Public Safety Department,  
St. Paul

**Delivery date:** 10 days

**Item:** Letterhead and second sheets

**Req.#:** 0718

**Awarded to:** Printing Solutions,  
Bloomington

**Amount:** \$2,180.00

**Date:** August 23

**Deliver to:** Public Safety Department,  
St. Paul

**Delivery date:** 15 days

**Item:** Business cards

**Req.#:** 0719

**Awarded to:** Printing Solutions,  
Bloomington

**Amount:** \$1,422.00

**Date:** August 23

**Deliver to:** Public Safety Department,  
St. Paul

**Delivery date:** 15 days

**Item:** "Be On The Safe Side"

**Req.#:** 0727

**Awarded to:** Printing Resources,  
Shoreview

**Amount:** \$2,959.00

**Date:** August 23

**Deliver to:** Public Safety Department,  
St. Paul

**Delivery date:** As requested

## Department of Administration

### Information Policy Office

### Request for Loaned Technical Resources

The Information Policy Office is inviting information systems technology and consulting vendors to provide fulltime technical professionals for 4-6 months to assist in developing a statewide information architecture. Candidates should have skills in one or more of the following areas:

- Network planning (voice, data, image)
- Network management and control
- Data architecture development
- Data base design
- Risk assessment for information systems projects
- Strategic information planning

Candidates will be selected to participate in this program based on their skills, knowledge and experience, fit with the Office's needs, ability to work with others, and openness and integrity in making recommendations.

Appointments will be made beginning September 1, 1988. No more than three appointments will be made concurrently, although participation by vendors may be staggered over the course of the year. For consideration, please send a letter and a resume of your candidate no later than September 30th to:

Cathy Perme

Information Policy Office  
204 Administration Building

50 Sherburne Avenue  
St. Paul, MN 55155

For more information, please call Cathy Perme at (612) 296-5695.

## **Department of Human Services**

### **Family Support Programs, Refugee & Immigrant Assistance Division**

#### **Request for Proposals for Services to Refugees Under the Key State Initiative (KSI)**

NOTICE IS HEREBY GIVEN that the Refugee and Immigrant Assistance Division, Family Support Programs, Minnesota Department of Human Services, is seeking proposals concerning the delivery of services to refugees in Olmsted and Ramsey Counties in Minnesota.

The amount of federal funding currently made available to the State of Minnesota for KSI is estimated to be \$500,000. The goal of this funding is to reduce the welfare dependency of refugee families in Olmsted and Ramsey Counties.

Proposals must be submitted by 4:20 p.m. CDT, Friday, September 23, 1988.

For the complete proposal information package and questions, contact:

Refugee and Immigrant Assistance Division  
Minnesota Department of Human Services  
444 Lafayette Road  
St. Paul, MN 55101  
612/296-1383

## **Department of Human Services**

### **Moose Lake Regional Treatment Center**

#### **Notice of Request for Proposal for Medical Services**

NOTICE IS HEREBY GIVEN that the Moose Lake Regional Treatment Center, Mental Health Bureau, Department of Human Services, is seeking the services for the period September 1, 1988 thru June 30, 1989. These services are to be performed as requested by the Administration of the Moose Lake Regional Treatment Center.

(1) The services of a Radiologist to interpret X-Ray films taken by the hospital's X-Ray Technician. The estimated amount of the contract is \$41,042.00.

(2) Services of a Psychiatrist to perform consultation services in Psychiatry for the Moose Lake Regional Treatment Center five days each week and the consultant will serve in an "On Call" capacity one night each week as agreed to by himself and the Medical Director of the Moose Lake Regional Treatment Center. Other consultations will occur via phone or mail as needed and as deemed appropriate. The estimated amount of contract is \$150,120.00.

Responses to the above services must be received by September 26, 1988.

Direct inquiries to:

Frank R. Milczark  
Chief Executive Officer  
Moose Lake Regional Treatment Center  
1000 Lakeshore Drive  
Moose Lake, MN 55767  
(218) 485-4411 Ext. 242

## **Department of Jobs and Training**

### **State Job Training Office**

#### **Notice of Request for Proposals for Operation of Job Training Programs for Older Individuals**

The Minnesota Department of Jobs and Training, State Job Training Office, is requesting proposals from appropriate organizations and units of government to provide employment and training services to older individuals. The program, authorized by Section 124 of the Job Training Partnership Act, is designed to provide for the training and placement of low income persons 55 years of age and older into jobs with private business concerns. A minimum of \$130,479 is available to fund programs to operate between January 1, 1989 and December 31, 1989. Proposals must be received no later than 4:30 p.m. October 28, 1988.

## State Contracts and Advertised Bids

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Request for Proposal application materials are available upon request. Inquiries and requests should be directed to:

Charlie Robinson  
690 American Center Building  
150 East Kellogg Boulevard  
St. Paul, Minnesota 55101  
(612) 297-1054

## Office of Tourism

### Department of Trade & Economic Development

#### Request for Proposals for Winter Tourism Marketing and Development Study

The Minnesota Office of Tourism is seeking proposals for a company to evaluate Minnesota's regional winter tourism markets and to make marketing and development action plans for local and regional tourism development and expansion of this market potential. The selected consultant will study and evaluate the market potential for Minnesota's cross country skiing, downhill skiing, snowmobiling, ice fishing, and any other applicable outdoor winter activity including winter carnivals, festivals and outdoor events. The consultant will identify principal winter target markets nationally, develop marketing plans to reach the target markets, and recommend levels of development of attractions, facilities, trail networks, etc. that may be necessary to increase Minnesota's winter tourism market potential. Include methods of evaluation for all programs.

The contract amount is not to exceed \$30,000 for all services rendered beginning October 1988 through delivery of the final report(s) in May 1989. To receive a copy of the Request for Proposal, which specifies project objectives and includes an application and consultant questionnaire, contact:

Steve Markuson, Regional Manager  
Minnesota Office of Tourism  
Northcentral/West Region  
P.O. Box 443  
Brainerd, MN 56401  
(218) 828-2334

All proposals must be received no later than 5:00 p.m., Monday September 19, 1988.

David J. Speer, Commissioner  
Minnesota Department of Trade & Economic Development  
Office of Tourism

## State Grants

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

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

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## Bureau of Mediation Services

### Applications Accepted for Funding Under the Minnesota Area Labor-Management Committee Program

The Bureau of Mediation Services is now accepting applications for funding of new or existing Area Labor-Management Committee programs pursuant to *Minnesota Statutes* § 179.81-85 (1988).

Persons interested in applying for such funds may secure an application form and program policies by requesting them in writing from:

Earl R. Willford, Program Director  
Office of Cooperative Labor-Management Programs

Bureau of Mediation Services  
1380 Energy Lane, Suite Two  
St. Paul, Minnesota 55108-5253

Applications for funding during fiscal year 1989 will be accepted until October 15, 1988. All grants awarded will be effective January 1, 1989.

Paul W. Goldberg  
Commissioner

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**Supreme Court Decisions****Decisions Filed 26 August 1988**

**C7-88-465 Marvin Dengerud v. Utley-James, Inc., and Michigan Mutual Insurance/Equity Adj., Relators and Minnesota Department of Jobs and Training. Workers' Compensation Court of Appeals.**

The employee's award of temporary partial benefits based on post-injury wages is affirmed but the award of temporary partial benefits at the temporary total rate is reversed.

Affirmed in part and reversed in part. Amdahl, C.J.

**C8-88-703 Joan R. Bue v. St. Otto's Home, and St. Paul Fire and Marine Ins. Co., Relators and Blue Cross/Blue Shield of Minnesota, intervenor and Mutual Benefit Life Ins. Co., intervenor. Workers' Compensation Court of Appeals.**

The employee's award of temporary partial compensation is reversed.

Reversed. Amdahl, C.J.

**C3-87-632 William Charles Sisson, Appellant v. Mr. Thomas Triplett, Minnesota Commissioner of Revenue, et al. Ramsey County.**

*Minn. Stat.* ch. 297D(1986) does not violate procedural or substantive due process rights or the right against self-incrimination guaranteed by the fifth and fourteenth amendments of the United States Constitution and article I, Section 7 of the Minnesota State Constitution.

Affirmed. Wahl, J.

**C0-87-1124 William Broton, as parent and natural guardian of John Broton, a minor, v. Western National Mutual Insurance Company, petitioner, Appellant, State Farm Mutual Automobile Insurance Company. Court of Appeals.**

The maximum liability of the insurer with respect to underinsured motorist coverage is the difference between the limits of underinsured motorist coverage set out in the policy declarations or schedules and the amount which has been paid or will be paid to the insured by or for the tortfeasor or tortfeasors, or the amount of damages sustained but not recovered, whichever is the lesser amount.

Reversed. Coyne, J.

Concurring specially: Yetka, J.

Took no part: Popovich, J.

**C6-87-1919 Loren Roberts, as Trustee for the heirs of Jeffrey L. Roberts, deceased, Plaintiff-Appellant v. State Farm Mutual Automobile Insurance Company, an Illinois corporation. Blue Earth County.**

The maximum liability of the insurer with respect to underinsured motorist coverage is the difference between the limits of underinsured motorist coverage set out in the policy declarations or schedules and the amount which has been paid or will be paid to the insured by or for the tortfeasor or tortfeasors, or the amount of damages sustained but not recovered, whichever is the lesser amount.

Affirmed. Coyne, J.

Took no part, Popovich, J.

**C6-88-232 John Deschampe v. Arrowhead Tree Service and Fireman's Fund Insurance Company, Relators. Workers' Compensation Court of Appeals.**

Where the assignment of permanent partial disability ratings under two or more sections of the brain injury subpart of the central nervous system schedule is necessary to represent the employee's disablement, the ratings for the two or more categories of impairment may be combined using the statutory formula; levels of severity under one category of impairment may not be cumulated.

## Supreme Court Decisions

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Impairment compensation for an employee who is permanently totally disabled and does not return to work is to be paid on a periodic basis pursuant to *Minn. Stat.* § 176.101, subd. 30 (1984), rather than in a lump sum.

Affirmed in part; reversed in part. Coyne, J.

**C2-86-1468** In the Matter of the Application for the Discipline of Geoffrey Peters, an Attorney at Law of the State of Minnesota. Supreme Court.

Publicly reprimanded. Per Curiam.

Concurring specially: Popovich & Fallon Kelly, JJ.

Took no part: Amdahl, C.J., Wahl & Kelley, JJ.

## Announcements

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**Work Zone Safety in New Drivers' Manual:** A section on work zone safety has been incorporated in the latest issue of the state *Drivers' Manual*. The booklet now contains information about "snow clouds" and driving near snowplows in storms, explanations of work zones and traffic control zones, work zone speed limits and the kinds and meanings of traffic control devices. The section is a result of work done by six Minnesota Dept. of Transportation employees of the Bemidji Highway Maintenance Task Force.

**Wetland Losses:** Approximately 72% (nine million acres) of Minnesota's original wetlands have been lost, mostly as a result of drainage for agricultural purposes. The distribution of wetland loss in the state has been unequal, with most losses of original wetlands occurring in western and southern Minnesota. The state continues to lose an estimated 5,300 acres of wetlands each year. Wetlands provide vital natural functions, such as ground water recharge and flood and storm water storage, and provide essential habitat for fish and game. Their continued loss calls for additional protection by economic incentives, regulation and education.

**Waterfowl Law Enforcement Increased:** Conservation Officers in Minnesota will be increasing their enforcement efforts statewide to ensure compliance with waterfowl regulations. Waterfowl hunters, conservation organizations and the press are calling for greater compliance with waterfowl regulations nationwide due to the problem of illegal taking of ducks. State and federal agencies are being told that there will be no tolerance for those who disobey waterfowl regulations. The vast majority of duck hunters are lawful and can help by not tolerating illegal activities they encounter. Call TIP (Turn In Poachers) at 1-800-652-9093 or explain to the offending party that the regulations protect both ducks and the privilege to enjoy the heritage of waterfowling.

**School Information Guide to Be Published:** A guide will be available in the fall of 1989 that contains information on educational programs in the state, transportation, different kinds of educational programs within schools, the philosophy of those programs and the experience with the program meeting individual needs. To be published by the Citizens League, the guide to public education in the Twin Cities metropolitan area will provide parents and students with information about different schools and programs available to them under Minnesota's open enrollment legislation. School data listings will include information on: location, size, budget, long range plans, types of programs, teacher information, demographic information about students, parent activities and organizations, testing information, after-school programs, motivational incentives and alternative programs within the school district. Contact Marina Lyon, Citizens League, 708 S. 3rd Street, Minneapolis, MN 55415, (612) 338-0791, to be placed on a mailing list of interested people. A modest fee will be charged for the guide.

**Traffic Deaths Increase:** Traffic deaths this year are 20% ahead of last year's pace. The Minnesota Dept. of Transportation's speed monitoring showed that during the second quarter of this year, 70% of vehicles exceeded 55mph on 55mph posted roadways. The National Highway Traffic Safety Administration said in April that deaths on rural interstate highways posted at 65mph has risen by 18-22%.

**State Agency Advertising Accounts:** The Minnesota Department of Transportation (Mn/DOT), Transit Division, has renewed the marketing contract with Simons Allyn Marketing Communications, Minneapolis, for 1988. The Minnesota Housing Finance Agency (MHFA) also has been added to their client roster. The Minnesota Office of Tourism has appointed Carmichael-Lynch, Minneapolis, as their advertising agency on an account estimated at \$2 million.

**Sodium Chlorate Use Authorized:** Agriculture Commissioner Jim Nichols authorized use of sodium chlorate to accelerate the state's dry edible bean harvest because temperature fluctuations are causing disease that hurts the crops. The chemical will be available for use until August 30 unless extended by the Environmental Protection Agency.

**Grants to Help Low-Income People:** Federal and state grants totalling about \$9.1 million are being awarded to 41 Minnesota Community Action Agencies, Indian Reservation Governments and the Minnesota Migrant Council by the Economic Opportunity Office of the Minnesota Department of Jobs and Training. Federal Community Service Block Grant funds totaling a projected \$8.1 million are earmarked for activities to enable low-income individuals and families to obtain the skills, knowledge and motivations which will result in their becoming more self-sufficient. The state legislature had authorized an additional \$1.1 million through Minnesota Economic Opportunity grants to supplement federal funds through June 30, 1989. Local grantees determine activities and services to be offered based upon an assessment conducted to determine the particular needs of the eligible populations.

**Transferred:** The Charitable Gambling Control Board has been transferred to the Dept. of Revenue in order to improve efficiency and avoid duplication in the operation and duties of the board. Addresses and phone numbers will remain the same for the present time.

**Environmental Quality Board:** Comments are due September 21 on the following Environmental Worksheets (EAWs) for the projects listed at the regional governing unit paired with them: Old Colony Estates, City of Andover; Lakeside Marina, City of Prior Lake; and Marvin Windows Expansion, City of Warroad. A petition for an environmental review has been received for the Lindenfesler Demolition Landfill with the Minnesota Pollution Control Agency listed as the contact (612) 296-7799. Environmental Impact Statement (EIS) preparation notices are being prepared for the Apple Valley Consolidated End Use Concept by Richard Kelley, City of Apple Valley; the Normandale Lake Office Park, by Rick Geshwiler, City of Bloomington; and the Hennepin County Light Rail Transit System Stage I by Vern Gezlinger, Hennepin County Regional Railroad Authority. The City of St. Paul has determined that it is necessary to extend the review period of the Burlington Northern Midway Hub Yard EAW for 90 days until November 15, due to newly received information on the noise impact of the current operation of the yard.

<p><b>TO ORDER:</b> Complete attached order blank. Include either your VISA/MasterCard number with the expiration date, or a check/money order made out to the State of Minnesota. Orders by phone are accepted when purchasing with your VISA/MasterCard or if you have a customer deposit account. Please include a phone number where you can be reached during the day in case we have questions about your order. Please include 6% sales tax and \$1.50 postage and handling. <b>PREPAYMENT REQUIRED.</b> Merchandise may be returned at \$1.50 restocking charge, if it is in resalable condition. <b>NOTE:</b> State Register and other subscriptions do not require sales tax or postage and handling fees. Prices subject to change without notice. Please allow about 6 weeks for delivery. In a hurry? Stop by our Bookstore. Bookstore Hours 8:00-4:30 M-F</p>	<b>Code No.</b>	<b>Quantity</b>	<b>Description</b>	<b>Item Price</b>	<b>Total</b>	
	Name or Company				<b>Subtotal</b>	
	Attention			Plus 6% tax MN Residents Only		
	Address					
	City	State	Zip	Postage/Handling (per order)		<b>\$1.50</b>
VISA/MasterCard No. or Cust. Deposit No.				<b>TOTAL</b>		
Signature		Expiration Date	Telephone (During Day)			

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# MAILING LISTS GALORE

## Successful business means successful sales

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

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

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

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

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## Minnesota Manufacturer's Directory 1987-88

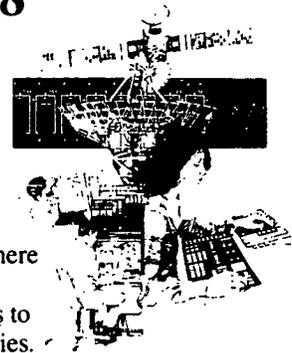


UPDATED: Name, address, phone number, staff size, sales volume, market area, year of establishment, type of firm, C.E.O., Sales or Marketing Manager, Purchasing Manager and four major manufactured products. Code #40-2, \$73.00.

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



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



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

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## Voices of the Loon

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

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

*The Loon: Voice of the Wilderness*, hardbound with color plates and illustrations, 143 pages. Code #19-54, \$15.95.

*Loon Calendar 1988*, beautiful photographs and scenes. Code #15-40, \$6.95.

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

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

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

*Loon with baby*-poster, 16" x 20". Code #15-48d, \$3.00.



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# Minnesota's future environment

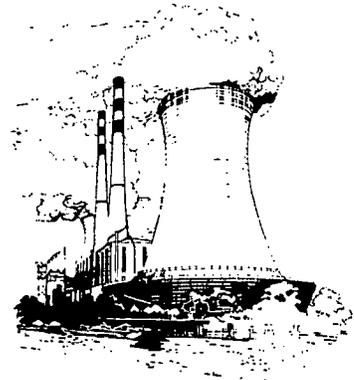
The issue of environmental protection is of continuing interest to both Minnesota business and the general public. Stay abreast of changes in state government regulations with these publications.

## 1987 Pollution Control Laws

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

## 1987 Hazardous Waste Rules

Governs the production, storage, transportation and disposal of hazardous waste. MN Rules Chapter 7045 and 7046. Code No. 3-71. \$15.00.



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

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## Subscription Services

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

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

SUBSCRIPTION	COST	CODE NO.	SUBSCRIPTION	COST	CODE NO.
Career Opportunity Bulletin, 1 year	\$ 25.00	90-3	State Register, 1 year	\$130.00	90-1
Career Opportunity Bulletin, 6 mos.	\$ 20.00	90-4	State Register, 3 mos. trial can be	\$ 40.00	90-2
Human Services Informational and Instructional Bulletin	\$100.00	90-6	converted to a full subscription for \$90 at end of trial		
Human Services Bulletin List	\$ 30.00	90-7	Tax Court/Property Decisions	\$210.00	90-11
PERB (Public Employee Relations Board) Awards	\$285.00	90-9	Workers Compensation Decisions, unpublished subs run Jan-Dec; can be prorated	\$320.00	90-12
PERB (Public Employee Relations Board) Decisions	\$ 60.00	90-10	Workers Compensation Decisions		
Minnesota Statutes Subscription Includes the complete 10-volume set of Minnesota Statutes 1986 and the 1987 Supplement	[ Out of Stock ]	18-8	Vol. 38 (limited quantity)	\$ 89.50	
			Vol. 40	\$105.00	

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

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## For Real Estate Professionals:

### REAL ESTATE RULES 1987

Chapters 2800, 2805, and 2810 from the Minnesota Rules. *Essential* for both students and established brokers and salespersons. It contains all education and licensing requirements. Code No. 3-99. \$8.00

### REAL ESTATE LAWS 1987

Includes all the changes made by the 1986 State Legislature. Complete and up-to-date. Code No. 2-92. \$6.00.



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

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## Morel: Minnesota's mushroom

**ROON: A Tribute to Morel Mushrooms**, this delightful treatise on the "filet mignon" of mushrooms will help the stalker of this elusive prey find, and prepare in a variety of ways, its mouth-watering madness. Code #19-55, \$12.00.

**Edible Mushrooms**, a classic guide to safe mushrooms, describes 60 species in detail, with photographs (many in color) to show each in its natural habitat. Advice to amateur mushroom hunters. Paperbound, 118 pp. Code #19-11, \$9.95.

**Malfred Ferndock's Morel Cookbook**, brim full of morel lore, interesting and tall tales, recounts of the hunt, and many savory recipes. Spiral bound, 117 pgs., black & white photos and drawings. Code #19-83, \$8.50.

**Northland Wildflowers**, the perfect mushroomers companion. An excellent guide for identification and enjoyment of wildflowers, with 308 color photographs and descriptions of 300 species. Paperbound. 236 pp. Code #19-9, \$12.95.

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

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## NOTARY PUBLIC LAWS

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



Jane Smith

NOTARY PUBLIC-MINNESOTA

RAMSEY COUNTY

My Commission Expires January 1, 1994

### U.S. SMALL BUSINESS ADMINISTRATION PUBLICATIONS:

Insurance and Risk Management for Small Business

Code No. 16-50. \$3.00.

Small Business Finance

Code No. 16-42. \$2.00.

Starting and Managing a Small Business of Your Own

Code No. 16-40. \$4.75.

**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.

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## Catching criminals is only one part of law enforcement. Here's the rest of it.

**Police Report Writing Style Manual 1986**—A common framework for report writing throughout the state. Discusses the general purpose of police reports, reviews field notetaking, offers instructions on completing common report forms, and introduces the Data Practices Law. Code No. 14-13. \$12.50.

**Background Investigation Manual 1986**—A guide to conducting effective thorough background investigations of peace officer candidates. Included are various criteria for use in the selection process: experience, education, and past behavior. Sample forms. Code No. 14-15. \$10.00.

**Motor Vehicle Traffic Laws 1987**—Includes laws governing motor carriers, motor vehicle registration and no-fault auto insurance. Code No. 2-85. \$13.00.

**Criminal Code & Selected Statutes 1987**—Governs the conduct of peace officers. Includes continuing education requirements, sentencing standards, and more. Code No. 2-68. \$15.00.

**Blue Binder**—3 ring, 2" capacity. Criminal Code and Motor Vehicle Traffic Laws require 1 binder each. Code No. 10-21. \$4.25.



**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.

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## Murder: Minnesota style

**Murder in Minnesota** is a treasury of vintage crimes. Characters, some famous, some obscure, come to life in all their cleverness or murderous madness. Minnesota cases from 1858-1917. 253 pp. photos, index. Code 17-35, \$5.95.

**Robber and Hero** On September 7, 1876 six members of the James-Younger gang blasted their way out of Northfield, Minnesota. George Huntington's classic account of the Northfield Bank raid is as fascinating today as it was when first published 19 years after the attempted robbery. 125 pp., charts, maps, photos, with index. Code 17-40, \$5.95.

**Secrets of the Congdon Mansion** The prosecutor called it a crime of greed. A complex, intriguing murder case, set in one of Minnesota's most spectacular mansions, and now a top Minnesota tourist attraction on Duluth's famous Lake Superior North Shore Drive. By Joe Kimball, 64 pp., drawings. Code 19-56, \$4.95.

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

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## Human Services Laws and Rules

### Human Services Laws 1987

An extract from the statutes. Includes legislative amendments and additions from the most recent session. Code No. 2-56. \$21.00

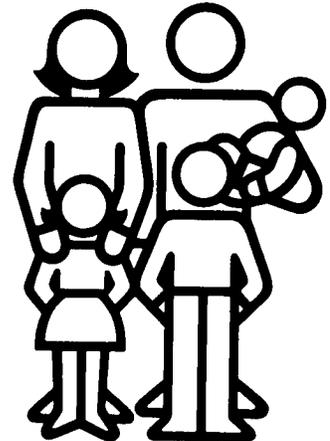
### Human Services Rules as in effect July 7, 1986

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

**Human Services Rules Supplement 1987.** Includes recent changes to many rules in effect from July 1986 through January 1987. Code #3-95s1, \$14.00.

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

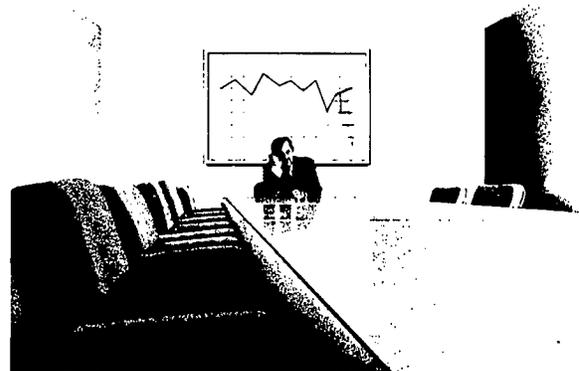
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## Business and NonProfit Corporation Act

Laws governing establishment and conduct of for-profit and non-profit businesses and corporations. Covers incorporation, bylaws, mergers, dissolution, franchises, and definitions. Contains Minnesota Statutes Chapters 80B. 302A, and 317. Paperbound, 102 papers, Code # 2-87, \$10.00.



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## Woodworking for Wildlife

**Woodworking for Wildlife**, delightfully written and carefully illustrated with a variety of game bird and mammal box designs. Includes important information on the placement of nests in proper habitat areas and maintenance requirements. Diagrams, 48 pp. Code #9-14, \$3.95.

**Help Minnesota's Wildlife**, feed the birds and give to the Nongame Wildlife Checkoff on your Minnesota Tax Forms. Poster. 22" x 17", full color. Code #9-2, \$4.00.

**Fifty Birds of Town and City**, describes the activities and habitats of these birds commonly seen today through full color paintings, Hardbound. 50 pp. Code #16-23, \$7.50.

**Mammals of Minnesota**, discusses wild mammals that inhabit Minnesota today, or in the recent past. Tells how to identify them, their distribution in the state, and their natural history. U of M Press, 1977, illustrated, index, bibliography, paperbound, 290 pp. Code #19-35; \$15.95.

**Bird Portraits in Color**, a total of 295 species of birds are depicted through magnificent illustrations, reproduced in seven-color lithography, accompanied by authoritative information about birds' activities, habitats, songs, and other characteristics, U of M Press, 1980, index, 92 color plates, hardbound. Code #19-41, \$12.95.

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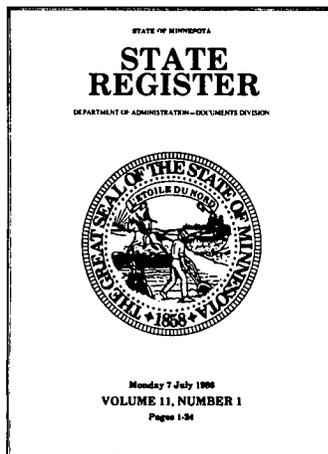
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