

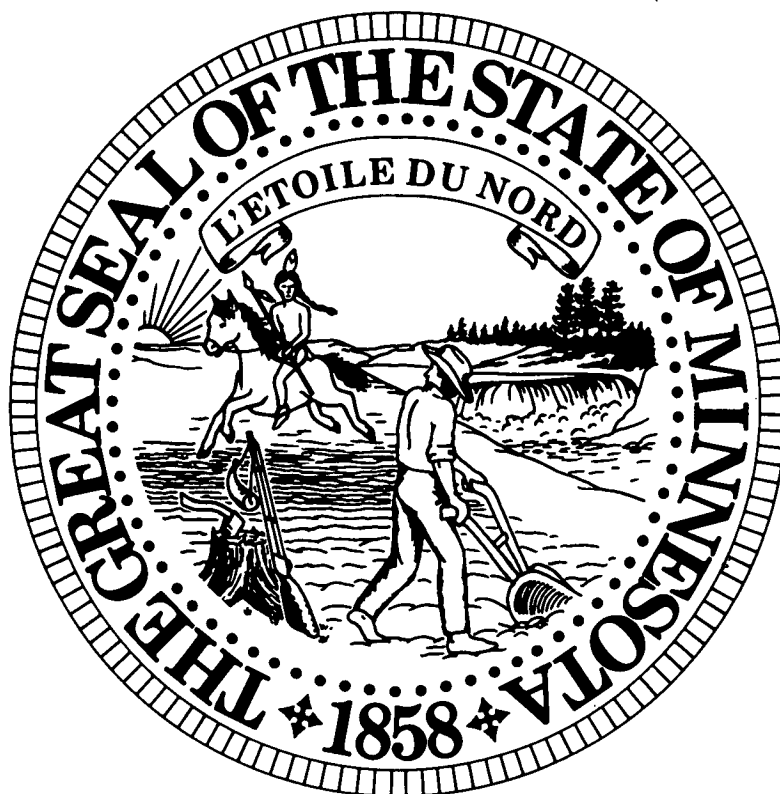
89, Sept. 11

P182

State of Minnesota

STATE REGISTER

Department of Administration—Print Communications Division



Rules edition
Published every Monday

11 September 1989

Volume 14, Number 11

Pages 569-688

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 and commissioners' orders, proposed and adopted rules, official notices, state and non-state contracts, contract awards, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

A *Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.

Printing Schedule and Submission Deadlines

Vol. 14 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
11	Monday 28 August	Friday 1 September	Monday 11 September
12	Tuesday 5 September	Monday 11 September	Monday 18 September
13	Monday 11 September	Monday 18 September	Monday 25 September
14	Monday 18 September	Monday 25 September	Monday 2 October

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the *State Register* editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *STATE REGISTER* is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A *STATE REGISTER Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme and tax courts; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the *STATE REGISTER* be self-supporting, the following subscription rates have been established: the Monday edition costs \$130.00 per year and includes an index issue published in August (single issues are available at the address listed above for \$3.50 per copy); the combined Monday and Thursday editions cost \$195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for \$60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

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

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FOR LEGISLATIVE NEWS

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

SENATE

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

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

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

HOUSE

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

This Week—weekly interim bulletin of the House.

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

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

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

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

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

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

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Proposed Rules

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

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

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

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

Center for Arts Education

Proposed Permanent Rules Relating to Education

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Center for Arts Education Board intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, Chapter 14.22 to 14.28, 1986. The Board's authority to adopt the rule is set forth in *Minnesota Statutes*, Chapter 129C.10, Subd. 4a, 1988.

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. That date would end on October 11, 1989 at 4:30 p.m. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 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 requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes*, Chapter 14.131 to 14.20, 1986.

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

James Undercofler, Executive Director
Minnesota Center for Arts Education
6125 Olson Memorial Highway
Golden Valley, Minnesota 55422
(612) 591-4700

The proposed rule 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 as noticed. A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from James Undercofler, Executive Director, Minnesota Center for Arts Education, 6125 Olson Memorial Highway, Golden Valley, MN 55422 upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent 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 rule, must submit the written request to James Undercofler.

Dated: 4 August 1989

Rules as Proposed

3600.0010 DEFINITIONS.

Subpart 1. [Unchanged.]

Proposed Rules

Subp. 2. **Board.** "Board" means the board of the Minnesota ~~School and Resource~~ Center for the Arts Education established in Minnesota Statutes, section 129C.10, subdivision 1.

Subp. 3. **Director.** "Director" means the individual appointed by the board under Minnesota Statutes, section 129C.10, subdivision 4, paragraph (a), clause (1), to administer the ~~school of the~~ Center for Arts Education.

Subp. 4. **Full-time high school program.** "Full-time high school program" means the ~~school~~ Center for the Arts Education full-time pilot interdisciplinary academic and arts program for 11th and 12th grade pupils, as defined in Minnesota Statutes, section 129C.10, subdivision 3, paragraph (f), clause (1).

Subp. 5. [See Repealer.]

Subp. 6. [Unchanged.]

3600.0020 HOW THIS CHAPTER APPLIES.

Parts 3600.0010 to 3600.0070 prescribe the application, arts review, and evaluation processes for pupils wanting admission to the full-time high school or programs program. Participants in ~~resource~~ center programs under Minnesota Statutes, section 129C.10, subdivision 5, are not included in the application, arts review, and evaluation process in parts 3600.0010 to 3600.0070.

3600.0030 APPLICATION PROCESS.

Subpart 1. **Eligible applicants.** An eligible applicant is a pupil who would be considered a resident entitled to a free education under Minnesota Statutes, section 120.06, as of December 15 of each year, who meets the following requirements:

A. For the full-time high school, ~~for 1989 program~~, pupils who will be in the 11th grade in the following September ~~1989~~; and for 1990, pupils who will be in the 10th or 11th grade in September 1989.

B. [Unchanged.]

Subp. 2. **Application forms for the full-time high school program.** Eligible applicants may apply for admission to the full-time high school or its programs program by completing application forms. The ~~school center~~ must supply the forms by October 1 each year. Application forms will be available at the ~~school's~~ center's central office, Monday through Friday, 8:00 a.m. to 4:30 p.m. Additionally, the ~~school center~~ will mail forms to all high school buildings in the state. Application forms must be mailed back to the ~~school center~~, and be postmarked by December 15, to be considered for admission into the full-time high school or its programs program.

Subp. 3. **Other information required.** An applicant to the full-time high school program must submit a school record and ~~four~~ two recommendations. The recommendations must be submitted on forms provided by the ~~school center~~. ~~Two recommendations~~ One recommendation must be from an academic references, ~~one of which is source~~ selected by the applicant, and ~~one of which is selected by the applicant's school principal~~. The other ~~two recommendations~~ recommendation must be from an artistic references reference chosen by the applicant.

Subp. 4. **Number of applications.** An individual may apply up to two times for admission into the full-time high school and its programs program.

3600.0040 ARTS REVIEW PROCESS.

Subpart 1. **Participation; place.** Applicants to the full-time high school program must participate in an arts review process. Reviews will be held at ~~six regional sites, determined by the board, throughout the state in three locations, one in the metropolitan area, one in northern Minnesota, and one in southern Minnesota~~, from January to mid March each year. Locations will be determined by the board.

Subp. 2. **Arts review team.** The board must appoint ~~36~~ six arts review teams; ~~six for each of the six regional sites~~. Teams must have three members each: one professional educator, one professional artist, and one staff member from the ~~school center~~. Team members will be replaced by the board as necessary.

Subp. 3. **Areas of review.** Applicants will ~~An applicant must~~ be reviewed in the primary area or areas of specialty ~~they designate on their applications designated on the application~~, within the following categories: dance, literary arts, media arts, music, theater arts, and visual arts. Applicants ~~An applicant may~~ apply to be reviewed in more than one specialty area. If application is made for review in more than one specialty area, the applicant must be reviewed in each area in which the director determines the applicant has reviewable artistic potential.

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

Proposed Rules

Subp. 4. **Arts review evaluation.** The arts review team will evaluate applicants' artistic potential in three broad areas:

- A. skills/proficiency, which is the ability to effectively communicate the arts specialty area, ~~20~~ 30 possible points;
- B. creativity/imagination, which is the ability to develop inventive, personal, concise expressions within the arts specialty area, ~~25~~ 30 possible points; and
- C. attitude, which is the level of motivation, commitment, and energy for activities within the arts specialty area, ~~25~~ 40 possible points.

An applicant must score at least ~~45~~ 20 points in skills/proficiency, 20 points in creativity/imagination, and ~~20~~ 25 points in attitude in order to be considered further for admission.

Subp. 5. **Arts review activities.** Applicants will be evaluated by the arts review team in the following activities:

A. Demonstration of an example or examples of the applicants' previous arts activities, products, and abilities. The arts review team will evaluate the demonstration with the following criteria:

(1) to what degree do the applicants possess a potential for rapid acquisition of skills needed to effectively communicate their arts specialties, (skills/proficiency), zero to ~~ten~~ 15 points;

(2) at what level do the applicants demonstrate a personal creative expression within their arts specialty areas, (creativity/imagination), zero to ten points; and

(3) to what extent do the applicants demonstrate commitment, energy, and motivation to their arts specialty areas, (attitude), zero to ten points.

B. Spontaneous individual and group activities that highlight individual creativity and group interaction. These activities will be related to the applicants' specialty areas. The arts review team must evaluate the activities according to the following criteria:

(1) to what degree do the applicants' responses demonstrate personal, imaginative expressions, (creativity/imagination), zero to five points; and

(2) to what extent do the applicants demonstrate a willingness to participate energetically, (attitude), zero to ~~five~~ ten points.

C. ~~Resolution of~~ Solution to an arts oriented ~~problem~~ assignment. Two weeks before the arts review meeting, the ~~school center~~ will send applicants an arts oriented ~~problem~~ assignment specific to their specialty areas. Applicants will bring the solution to the ~~problem~~ assignment to the arts review meeting and present it to the arts review team. The arts review team will evaluate the solution according to the following criteria:

(1) to what extent does the solution demonstrate skill and proficiency effectiveness, (skills/proficiency), zero to ~~ten~~ 15 points; and

(2) to what extent does the solution represent an imaginative, creative solution, (creativity/imagination), zero to ~~ten~~ 15 points.

D. [Unchanged.]

3600.0050 FINAL REVIEW TEAM.

The final review team will examine all application materials including the arts review team evaluations, and will select pupils for placement. The final review team includes the director, two program associates from the ~~school center~~ selected by the director and the following persons selected by the board: a Minnesota performing artist, a Minnesota visual artist, a Minnesota literary artist, two educators from the Minnesota public school system, and a psychologist.

3600.0060 EVALUATION BY THE FINAL REVIEW TEAM.

Subpart 1. **Applicants' school records.** Applicants' school records must be evaluated by the final review team designated in part 3600.0050. They must examine three factors in the school records: consistent failing or below average grades, severe drops in grades, and consistent high absentee rates. If any of these three factors appear, the final review team will request additional information from the applicants and the applicants' home schools to determine if these factors would make placement in the full-time high school or its programs ~~program~~ inappropriate. If the information is not received within two weeks after the ~~school's~~ center's request, a decision will be based on the information previously provided.

Subp. 2. **Recommendations.** The final review team must read the applicants' recommendations to determine the applicants' attitudes about prior learning in the academic and arts areas. ~~If there is a negative recommendation from any of the four sources identified in part 3600.0030, subpart 3, the final review team must request additional information from the applicants and the applicants' home schools to determine if the factors leading to the negative recommendations would make placement in the school or its programs inappropriate. If the additional information is not received within two weeks after the school's request, a decision will be based on the information previously provided.~~ The final review team may assign from zero to five points for each recommendation. The final

review team will assign points in the area of attitude according to what extent the recommendations demonstrate an applicant's motivation and commitment to learning.

Subp. 3. **Arts review process results.** If an applicant remains in the process after evaluation of information in ~~subparts~~ subpart 1 and 2, all information gathered as described in ~~part~~ parts 3600.0040, subparts 4 and 5, and 3600.0060, subpart 2, will be placed on a matrix, assigned a numerical rating, and totaled for a final score. This process will be done by the final review team. The final review team will chart scores on the matrix according to the congressional districts of all applicants. An equal number of applicants must be selected from each congressional district. If a congressional district does not have enough qualified applicants to fill its quota, the remaining positions shall be distributed equally to qualified applicants from other congressional districts.

REPEALER. Minnesota Rules, part 3600.0010, subpart 5, is repealed.

Pollution Control Agency

Proposed Permanent Rules Relating to Air Quality Permit Fees

Notice of Intent to Adopt Rules Without a Public Hearing and of Intent to Adopt Rules With a Public Hearing if 25 or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rule 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 (1988). The Agency's authority to adopt the rule is set forth in *Minnesota Statutes* § 116.07 subd. 4d (1988).

All persons have until 4:30 p.m. on October 11, 1989, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1988).

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON FRIDAY, OCTOBER 27, 1989, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE AGENCY. To verify whether a hearing will be held, please call Patrick J. Mulloy of the Agency staff, between October 16, 1989, and October 20, 1989, at (612) 296-7670.

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

Patrick J. Mulloy
Division of Air Quality
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7670

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

The proposed rules, if adopted, will govern air quality permit fees, *Minnesota Rules* parts 7002.0010 to 7002.0110. The proposed rules are published below. One free copy of the rules is available upon request from Roxanne M. LaPlante at the address stated above, or at (612) 296-7951.

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

Proposed Rules

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

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rules may have an effect on small businesses. Permit fees for small businesses were established in the existing rules at a level proportionate to their air emissions. Most small businesses are minor sources of air pollution, and therefore the fees are considerably less than those for the major sources. This differentiation in fees between minor and major sources will remain substantially the same under the proposed fee revisions.

Small businesses that qualify for general permits are not required to pay annual fees by the current rule. This situation is not changed by the proposed rule. A minimal permit processing fee (\$75) is added by this rule for general permits. The fee should not represent a significant burden to small sources.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent 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 rule as adopted, must submit a written request to Patrick J. Mulloy.

Gerald J. Willet
Commissioner

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than 25 Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) will hold a public hearing in the above-entitled matter at the State Office Building, 100 Constitution Avenue, 5th Floor, Room 500 North, St. Paul, Minnesota 55155, commencing at 9:30 a.m. on Friday, October 27, 1989. Additional days of hearing will be scheduled if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE AGENCY. To verify whether a hearing will be held, please call Patrick J. Mulloy of the Agency staff, between October 16, 1989, and October 20, 1989, at (612) 296-7670.

The matter will be heard before Administrative Law Judge Allen Giles, Office of Administrative Hearings, 5th Floor, Flour Exchange Building, 310 4th Avenue South, Minneapolis, Minnesota 55415, (612) 341-7604. The rule hearing procedure is governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1988) and by the rules of the Office of Administrative Hearings, *Minnesota Rules* Parts 1400.0200 to 1400.1200 (1989). Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above.

The subject of the hearing will be the proposed rules governing Air Quality Permit Fees, *Minnesota Rules* Parts 7002.0010 to 7002.0110. The proposed rules are authorized by *Minnesota Statutes* § 116.07, subd. 4d (1988). The proposed rules are published below. One free copy of the rules is available on request by contacting:

Roxanne LaPlante
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7951

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the Agency offices and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Agency offices or at the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Any person may present his or her views on the proposed rules in one of more of the following ways: by submitting written data at the hearing; and by submitting oral or written data at the hearing; and by submitting written data to the Administrative Law Judge during the comment period following the hearing. The comment period will be not less than five working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. The written material received during the comment period shall be available for review at the Office of Admin-

Administrative Hearings. Within three business days after the expiration of the comment period, the Agency and interested persons may respond in writing to any new information received during the comment period; however, no additional evidence may be submitted during this three-day period.

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

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

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.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rules may have an effect on small business. Permit fees for small businesses were established in the existing rules at a level proportionate to their air emissions. Most small businesses are minor sources of air pollution, and therefore the fees are considerably less than those for the major sources. This differentiation in fees between minor and major sources will remain substantially the same under the proposed fee revisions.

Small businesses that qualify for general permits are not required to pay annual fees by the current rule. This situation is not changed by the proposed rule. A minimal permit processing fee (\$75) is added by this rule for general permits. The fee should not represent a significant burden to small sources.

PLEASE BE ADVISED that *Minnesota Statutes* ch. 10A (1988) requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* § 10A.01, subd. 11 (1988) as any individual:

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

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

The statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5615.

Gerald L. Willet
Commissioner

Rules as Proposed

7002.0010 SCOPE.

Parts 7002.0010 to 7002.0100 apply to all persons required to obtain a permit from the Minnesota Pollution Control Agency as described in ~~part 7001.0020 (permanent rules, scope), items I and J~~ parts 7001.0010 to 7001.0210 and 7001.1200 to 7001.1350.

7002.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of ~~this chapter~~ parts 7002.0010 to 7002.0110, the terms defined in this part have the meanings given them and the definitions in parts 7001.0010, 7001.1260, and 7005.0010 to 7005.3060 apply unless the terms are defined in this part.

Subp. 2. [See Repealer.]

Subp. 2a. Administrative amendment. "Administrative amendment" means an amendment to an air emission permit or indirect source permit under part 7001.0190, subparts 2 and 3.

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

Proposed Rules

Subp. 3. **Air pollution control equipment.** "Air pollution control equipment" means a device used to prevent, abate, or control air pollution.

Subp. 4. and 5. [See Repealer.]

Subp. 6. **Major emission facility emitter.** "Major emission facility emitter" means a stationary source ~~having that has the potential emissions of to emit~~ 100 tons per year or more of ~~sulfur dioxide or particulate matter~~ a single criteria pollutant.

Subp. 7. [See Repealer.]

Subp. 7a. Noncriteria pollutant. "Noncriteria pollutant" means a pollutant that is not a criteria pollutant and that may have the potential to be injurious to human health.

Subp. 9. Nonmajor emitter. "Nonmajor emitter" means a stationary source other than a major emitter.

7002.0030 FEE DETERMINATION.

The agency shall calculate processing, compliance demonstration, and annual fees based upon the schedule in part 7002.0100 and shall notify the permittee of the amount due ~~prior to before~~ each payment date, except for application fees, which shall be submitted in accordance with part 7002.0050.

7002.0050 APPLICATION FEE.

A person who applies for (1) a permit to construct, ~~install~~, modify, reconstruct, or operate a facility an emissions unit, emission facility, stationary source, air pollution control equipment, or an indirect source, or (2) an administrative amendment, shall submit with the application the appropriate application fee. Failure to submit the fee renders the application incomplete and the agency shall suspend processing of the application until the fee is received. Application fees are nonrefundable.

7002.0060 PROCESSING FEE AND COMPLIANCE DEMONSTRATION FEES.

Subpart 1. Processing and compliance demonstration fees. Except as provided in subpart 2, a permittee shall pay the applicable processing fee and compliance demonstration fees as listed in part 7002.0100, subparts 3 to 4c, within 30 days of issuance of the permit by receipt of an invoice from the agency.

Subp. 2. Annual installment of fees. If a facility is a "small business" as defined in Minnesota Statutes, section 14.115, subdivision 1, the permittee may request to pay the processing fee in annual installments. Annual installments are determined by dividing the processing fee into equal annual payments based on the term of the permit. The first payment shall be made within 30 days of issuance of the permit receipt of an invoice from the agency and annually thereafter on the anniversary of issuance receipt of another invoice. A facility that qualifies as a "small business" must provide proof of that status upon application for a permit. For purposes of this subpart, the term of an indirect source permit is the construction period unless the permit specifies a term.

7002.0070 ANNUAL FEE.

All persons required to obtain a permit shall pay ~~an~~ the annual fee for enforcement of applicable statutes and rules ~~except as provided in~~ required by part 7002.0100, subparts 5, 5a, and 6. The annual fee shall be paid within 30 days of receipt of an invoice from the agency.

7002.0080 NOTIFICATION OF ERROR.

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

7002.0100 AIR QUALITY PERMIT FEE SCHEDULE.

Subpart 1. **Scope.** The fees established in this part are applicable to facilities and indirect sources which require an air emission permit under part 7001.1210 (permit rules, air emission permits) or an indirect source permit under part 7001.1270 (permit rules, indirect source permits). ~~For the purpose of this part, the terms used have the meanings given them in part 7005.0100 (air pollution control rules, definitions).~~

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

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

A. ~~\$1,440~~ \$1,000 for the construction of an indirect source;

B. ~~\$1,440~~ \$1,000 for the construction or reconstruction of a major emission facility emitter;

C. ~~\$480~~ \$500 for the construction or reconstruction of ~~an emission facility other than a major emission facility~~ a nonmajor emitter;

Proposed Rules

- D. ~~\$480~~ \$350 for the modification of a major ~~emission facility~~ emitter or installation of air pollution control equipment at a major ~~emission facility~~ emitter;
- E. ~~\$160~~ \$175 for the modification of an ~~emission facility other than a major emission facility~~ a nonmajor emitter or installation of air pollution control equipment at an ~~emission facility other than a major emission facility~~ a nonmajor emitter;
- F. ~~\$720~~ \$550 for the reissuance of a ~~major emission facility~~ permit for a major emitter; and
- G. ~~\$240~~ \$225 for the reissuance of an ~~emission facility~~ a permit other than a major emission facility for a nonmajor emitter;
- H. \$175 for any modification of an indirect source, other than an administrative amendment;
- I. \$50 for an administrative amendment to a permit; and
- J. \$75 for issuance or reissuance of a general permit.

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

Subp. 3a. Basic processing fee surcharges. In addition to the fees in subpart 3, item B, D, or F, a major emitter shall be charged a basic processing fee surcharge for the tons of potential emissions of criteria pollutants above the initial 100 ton per year threshold that classifies it as a major emitter. The surcharge shall be in the following amount, based on potential emissions of the criteria pollutant emitted in the greatest volume by the major emitter:

<u>Total Potential Emissions (tons per year)</u>	<u>Subpart 3, item B Construction Reconstruction</u>	<u>Surcharge Subpart 3, item D Modification</u>	<u>Subpart 3, item F Reissuance</u>
<u>250-499</u>	<u>\$ 500</u>	<u>\$175</u>	<u>\$ 275</u>
<u>500-999</u>	<u>\$ 750</u>	<u>\$260</u>	<u>\$ 415</u>
<u>1,000-4,999</u>	<u>\$1,125</u>	<u>\$395</u>	<u>\$ 625</u>
<u>5,000-9,999</u>	<u>\$1,500</u>	<u>\$590</u>	<u>\$ 935</u>
<u>10,000 or more</u>	<u>\$2,500</u>	<u>\$895</u>	<u>\$1,400</u>

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

- A. ~~\$800~~ \$800 for a ~~major stationary source, as defined in Code of Federal Regulations, title 40, section 51.18(j)(1)(iv); as amended through June 25, 1982, located in a nonattainment area~~ \$2,500 for permits issued to which parts 7005.3010 to 7005.3060 apply;
- B. ~~\$240~~ \$240 for an ~~emission facility that is subject to the \$2,500 for permits issued to which~~ emission facility that is subject to the \$2,500 for permits issued to which federal prevention of significant deterioration requirements as established ~~regulations~~ regulations in Code of Federal Regulations, title 40, section ~~51-24~~ 52.21 apply;
- C. ~~\$80~~ \$80 for an ~~emission facility that is subject to the federal \$125 for permits issued to which~~ emission facility that is subject to the federal \$125 for permits issued to which new source performance standards established ~~requirements~~ requirements in Code of Federal Regulations, title 40, part 60 ~~apply, with an additional \$125 applying for each additional~~ apply, with an additional \$125 applying for each additional new source performance standard ~~subpart beyond the first, applicable to the~~ subpart beyond the first, applicable to the subject permit;
- D. ~~\$240~~ \$240 for an ~~emission facility that must apply best available control technology as required under Code of Federal Regulations, title 40, section 51.24~~ emission facility that must apply best available control technology as required under Code of Federal Regulations, title 40, section 51.24 ~~\$400~~ \$400 for permits ~~requiring evaluation with regard to emissions of noncriteria pollutants~~ requiring evaluation with regard to emissions of noncriteria pollutants;
- E. ~~\$400~~ \$400 for evaluation of air emissions containing pollutants for which no ambient air quality standard has been established under part 7005.0080 (state ambient air quality standards) and which have the potential to be injurious to human health ~~dispersion modeling reviews performed for reasons other than those covered by item A, B, or D; and~~ dispersion modeling reviews performed for reasons other than those covered by item A, B, or D; and
- F. ~~\$240~~ \$240 for dispersion modeling review; and
- G. ~~\$240~~ \$240 for each performance test review ~~\$500 for either an indirect source design change as defined in the applicable indirect source permit, or for a modification of an indirect source permit that is neither a minor modification as described in part 7001.1350, nor an administrative amendment.~~ \$500 for either an indirect source design change as defined in the applicable indirect source permit, or for a modification of an indirect source permit that is neither a minor modification as described in part 7001.1350, nor an administrative amendment.

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

Proposed Rules

Subp. 4a. Additional processing fee surcharges. In addition to the fees required in subparts 3, 3a, and 4, the permittee shall pay the following additional processing fee surcharges when applicable:

A. \$250 for each additional criteria pollutant beyond the first which is subject to parts 7005.3010 to 7005.3060;

B. \$250 for each additional criteria pollutant beyond the first which is subject to federal prevention of significant deterioration rules in Code of Federal Regulations, title 40, section 52.21;

C. for each permit that includes permit requirements for facilities subject to new source performance standards, Code of Federal Regulations, title 40, part 60:

(1) \$25 for each additional affected facility, as defined in Code of Federal Regulations, title 40, part 60, beyond the first, that is subject to a single subpart of Code of Federal Regulations, title 40, part 60, not to exceed \$500 per permit issuance; and

(2) \$25 for each additional pollutant, beyond the first, to which the stationary source is subject under a single applicable subpart of Code of Federal Regulations, title 40, part 60;

D. \$75 for each additional noncriteria pollutant beyond the first that is evaluated; and

E. \$75 for each additional pollutant, beyond the first, that is subject to a fee for dispersion modeling review under subpart 4, item E.

Subp. 4b. Compliance demonstration fees. Fees under this subpart apply at the time of completion of the review of the activity by the agency. Persons required to perform the following activities shall pay the following applicable fees:

A. \$75 for each method 9 visible emissions evaluation performance test reviewed by the agency;

B. \$475 for each performance test report on emissions from one stack or equivalent emissions point, other than a method 9 visible emissions evaluation, reviewed by the agency, with a separate \$475 fee applying to each stack or equivalent emissions point tested; and

C. \$475 for each continuous emission monitor certification, recertification, and any relative accuracy test audit report reviewed by the agency.

Subp. 4c. Compliance demonstration fee surcharges. Fees under this subpart apply at the time of completion of the review by the agency. In addition to the fees required in subpart 4b, the permittee shall pay compliance demonstration fee surcharges as listed below when applicable:

A. \$25 for each additional method 9 visible emission evaluation included in a single performance test report beyond the first that is reviewed by the agency;

B. for a single performance test report, other than a method 9 visible emission evaluation report:

(1) \$100 for each additional reference method or its equivalent beyond the first five that is reviewed; and

(2) \$100 for each additional emissions unit that contributes to the stack or equivalent emissions point tested beyond the first that is reviewed; and

C. \$100 for each additional pollutant monitored by a continuous emission monitor submitting a report under subpart 4b, item C, beyond the first, not to include diluent gases necessary for monitor operation.

Subp. 5. Annual fees. All persons required to obtain an air emission permit or an indirect source permit shall pay the following applicable annual fees: according to items A and B.

A. \$1,040 for a major emission facility; or

B. \$240 for a stationary source other than a major emission facility. Stationary sources shall pay the following applicable annual fees:

(1) \$450 for a major emitter; and

(2) \$225 for a nonmajor emitter.

Annual fees for stationary sources shall be based on the potential emissions of the stationary source on January 1 of the year for which the fee applies. Seasonal facilities are not exempt from annual fees and shall pay annual fees in accordance with their potential to emit. The agency shall not charge an annual fee for a stationary source with if the potential emissions of a to emit any single criteria pollutant of is more than 25 tons per year but is less than 50 tons per year for each criteria pollutant unless the stationary source also discharges lead to the ambient air has the potential to emit at least 1,000 pounds of lead per year.

B. Persons required to obtain an indirect source permit shall pay an annual fee of \$400 through the year in which construction is completed or compliance with all permit provisions is documented, whichever is later.

Subp. 5a. Annual fee surcharges. In addition to the fees in subpart 5, item A, a major emitter shall be charged an additional

annual fee surcharge for the tons of potential emissions above the initial 100 tons that classifies it as a major emitter. The surcharge shall be in the following amount, based on the potential emissions of the criteria pollutant emitted in the greatest amount:

<u>Table Potential Emissions</u> (tons per year)	<u>Surcharge</u>
<u>250-499</u>	\$ <u>450</u>
<u>500-999</u>	\$ <u>675</u>
<u>1,000-4,999</u>	\$ <u>1,015</u>
<u>5,000-9,999</u>	\$ <u>1,520</u>
<u>10,000 or more</u>	\$ <u>2,280</u>

Subp. 6. **General permits.** The agency shall not charge ~~processing~~ or annual fees for permits issued as a general permit under the permit rules in part 7001.0210 (~~permit rules~~).

REPEALER. Minnesota Rules, part 7002.0020, subparts 2, 4, 5, and 7, are repealed.

Pollution Control Agency

Proposed Permanent Rules Relating to Hazardous Waste; Burning of Hazardous Waste and Used Oil

Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules with a Public Hearing if 25 or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rule amendments without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1988). The MPCA's authority to adopt the rule amendments is set forth in *Minnesota Statutes* §§ 115.03, subd. 1(g), 116.07, subd. 4 (1988).

All persons have until 4:30 p.m. on October 11, 1989, to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rules. 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 proposed rule amendments within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests 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 MPCA will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1988).

PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON OCTOBER 19, 1989, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULE AMENDMENTS PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE MPCA. To verify whether a hearing will be held, please call Gail V. Lund, MPCA, between October 11, 1989, and October 19, 1989, at 612/296-7351.

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

Gail V. Lund
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
612/296-7351

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

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

The proposed rule amendments, if adopted, will establish administrative requirements for marketers and burners of used oil and hazardous waste burned for energy recovery. The amendments prohibit the burning of hazardous waste and contaminated used oil in nonindustrial burning devices, but allow these fuels to be burned in industrial furnaces, industrial boilers and utility boilers. The amendments prohibit used oil, waste oil or other material contaminated with hazardous waste from being placed in or on the land and prohibit uncontaminated used oil from being placed in or on the land. The amendments also provide exemptions for certain hazardous wastes that are derived from petroleum refinery wastes from the hazardous waste rules.

The proposed rule amendments are published below. One free copy of the rules is available upon request from Gail V. Lund at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule amendments has been prepared and is available from Gail V. Lund upon request.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 14.115 (1988), "Small business considerations in rulemakings," that the proposed rule amendments will affect small businesses. The MPCA believes the economic impact on small business will be minimal because it believes the overall economic effect of the rules will be minimal. For additional information regarding possible effects, please see part V of the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rule amendments, the rule amendments and required supporting documents will be submitted 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 rules, must submit the written request to Gail V. Lund.

Gerald L. Willet
Commissioner

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than 25 Persons Request a Hearing in Response to Notice of Intent to Adopt Rule Amendments Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) will hold a public hearing in the above-entitled matter at the MPCA Board Room, 520 Lafayette Road North, St. Paul, Minnesota, commencing at 9:00 a.m. on October 19, 1989, and continuing in an evening session at the same location starting at 7:00 p.m. Additional days of hearing will be scheduled if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULE AMENDMENTS WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE MPCA. To verify whether a hearing will be held, please call Gail Lund, Minnesota Pollution Control Agency, between October 11, 1989, and October 19, 1989, at 612/296-7351.

The matter will be heard before Administrative Law Judge Allen E. Giles, Office of Administrative Hearings, Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, 612/341-7604. The rule hearing procedure is governed by *Minnesota Statutes* §§ 14.131 to 14.20 (1988) and by the rules of the Office of Administrative Hearings, *Minnesota Rules* pts. 1400.0200 to 1400.1200. Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above.

The subject of the hearing will be the proposed rule amendments governing the Management of Used Oil Burned For Energy Recovery, Hazardous Waste Burned For Energy Recovery, A Land Application Prohibition for Used Oil, and Technical Corrections to Existing Requirements for Recyclable Materials, *Minnesota Rules*, chapters 7001 and 7045. The proposed rule amendments are authorized by *Minnesota Statutes* §§ 115.03, subd. 1(g), subd. 4 (1988). The proposed rule amendments are published below. One free copy of the proposed rule amendments is available on request by contacting:

Gail V. Lund
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
612/296-7351

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the MPCA offices and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all of the evidence and argument which the MPCA anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rule amendments. Copies of the Statement of Need and Reasonableness may be reviewed at the MPCA offices or at the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

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

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

The proposed rule amendments may be modified if the data and views received during the hearing process warrant modification and the modification does not result in a substantial change in the proposed rule amendments. Therefore, if you are affected in any manner by the proposed rule amendments, you are urged to participate in the rule hearing process.

Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the MPCA may not take final action on the rule amendments 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.

You may request notification of the date on which the rule amendments are 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 MPCA at any time prior to the filing of the rule amendments with the Secretary of State.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rule amendments will affect small business. The MPCA believes the economic impact on small business will be minimal because it believes the overall economic effect of the rules will be minimal. For additional information regarding possible effects, please see part V of the Statement of Need and Reasonableness.

PLEASE BE ADVISED that *Minnesota Statutes* ch. 10A (1988) requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* § 10A.01, subd. 11 (1988) as any individual:

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

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

The Statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone 612/296-5148.

Gerald L. Willet
Commissioner

Rules as Proposed

7001.0520 PERMIT REQUIREMENTS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Permits by rule.** The owner or operator of the following facilities shall be deemed to have obtained a hazardous waste facility permit without making application for it unless the commissioner finds that the following conditions are not met:

A. to D. [Unchanged.]

E. Containers or tanks where generators mix characteristic hazardous waste as identified in part 7045.0131, subpart 2, with used oil if:

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Proposed Rules

(1) the generators who produce at least 1,000 kilograms per calendar month of hazardous waste meet the requirements of part 7045.0292, subpart 1; or

(2) the generators who produce less than 1,000 kilograms per calendar month of hazardous waste meet the requirements of part 7045.0219, subpart 4, item A.

Subp. 4. [Unchanged.]

7045.0020 DEFINITIONS.

Subpart 1. to 6. [Unchanged.]

Subp. 6a. **Boiler.** "Boiler" means an enclosed device using controlled flame combustion and having the characteristics specified in item A or B. If used oil or hazardous waste is to be used as a fuel in an industrial boiler or a utility boiler, these boilers must meet the additional criteria in items C and D.

A. and B. [Unchanged.]

C. An industrial boiler burning used oil or hazardous waste as a fuel must be located on the site of an establishment engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical processes.

D. A utility boiler burning used oil or hazardous waste as a fuel must be one that is used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

Subp. 6b. [Unchanged.]

Subp. 6c. Burner. "Burner" means an owner or operator of an industrial furnace, industrial boiler, or utility boiler meeting the definition of industrial furnace in subpart 43a or boiler in subpart 6a.

Subp. 7. to 9. [Unchanged.]

Subp. 9a. Collector. "Collector" means an initial transporter who receives used oil only from generators and does not market the used oil directly to a person who burns it for energy recovery.

Subp. 9b. Combustible liquid. "Combustible liquid" means a liquid that has a flash point below 200 degrees Fahrenheit and equal to or greater than 100 degrees Fahrenheit, as defined in Code of Federal Regulations, title 49, section 173.115.

Subp. 9c. Commissioner. "Commissioner" means the commissioner of the Minnesota Pollution Control Agency or his the commissioner's designee.

Subp. 9b- 9d. **Component.** "Component" means either the tank or ancillary equipment of a tank system.

Subp. 10. to 21a. [Unchanged.]

Subp. 21b. EPA identification number. "EPA identification number" means the number assigned by the Environmental Protection Agency to each generator, transporter, and treatment storage and disposal facility.

Subp. 22. to 24a. [Unchanged.]

Subp. 24b. Flammable liquid. "Flammable liquid" means a liquid exhibiting a flash point below 100 degrees Fahrenheit, as defined in Code of Federal Regulations, title 49, section 173.115.

Subp. 25. to 34. [Unchanged.]

Subp. 34a. Hazardous waste fuel. "Hazardous waste fuel" means a hazardous waste that is burned for energy recovery and includes fuel that is produced from hazardous waste by processing, blending, or other treatment, except for those blended fuels described in part 7045.0102, subpart 3.

Subp. 35. to 40. [Unchanged.]

Subp. 40a. Incidental burner. "Incidental burner" means a person who burns some used oil fuel for purposes of processing other used oil or treating other used oil to produce used oil fuel for marketing. These persons are considered to be burning incidentally to processing.

Subp. 41. to 55. [Unchanged.]

Subp. 55a. **Marketer.** "Marketer" means a person who, for the purpose of burning for energy recovery, processes, blends, or distributes waste oil, used oil, or hazardous waste. "Marketer" includes a generator who processes, distributes, or blends such fuel directly to a person who burns it; generator who markets hazardous waste fuel or used oil fuel directly to a burner; a person who receives hazardous waste or used oil from generators and produces, processes, or blends hazardous waste fuel from these hazardous wastes, or blends used oil from these oils; a person who distributes but does not process or blend hazardous waste fuel or used oil; and a person who sends blended or processed used oils to brokers or other intermediaries.

Subp. 56. to 58. [Unchanged.]

Subp. 58a. **Mixed municipal solid waste.** “Mixed municipal solid waste” has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 21.

Subp. 59. and 59a. [Unchanged.]

Subp. 59b. **Off-specification used oil.** “Off-specification used oil” means a used oil fuel that exceeds any of the specification levels for the following constituents or has a flash point less than 100 degrees Fahrenheit.

<u>Constituent</u>	<u>Allowable level</u>
<u>Arsenic, total</u>	<u>5 parts per million maximum</u>
<u>Cadmium, total</u>	<u>2 parts per million maximum</u>
<u>Chromium, total</u>	<u>10 parts per million maximum</u>
<u>Lead, total</u>	<u>100 parts per million maximum</u>
<u>Total Halogens</u>	<u>4,000 parts per million maximum</u>

Subp. 59c. **Onground tank.** “Onground tank” means a device meeting the definition of “tank” in subpart 90 and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

Subp. 60. [Unchanged.]

Subp. 60a. **On-specification used oil.** “On-specification used oil” means used oil fuel that does not exceed the specification levels for the constituents in subpart 59b, and has a flash point equal to or greater than 100 degrees Fahrenheit.

Subp. 61. to 100a. [Unchanged.]

Subp. 100b. **Used oil fuel.** “Used oil fuel” means used oil that is burned for energy recovery, and includes fuel produced from used oil by processing, blending, or other treatment, except for those blended fuels described in part 7045.0102, subpart 3.

Subp. 101. to 109. [Unchanged.]

7045.0102 MIXTURES OF HAZARDOUS AND NONHAZARDOUS WASTES.

Subpart 1. **Scope.** Except as provided in parts 7045.0125, subpart 40 and part 7045.0665, subpart 5, mixtures of hazardous and nonhazardous wastes are as follows: listed in subparts 2 and 3.

Subp. 2. **Mixtures of hazardous and nonhazardous wastes.**

A. to G. [Unchanged.]

Subp. 3. **Mixtures of used oil and hazardous waste.** Items A and B apply to used oil that is intentionally mixed with hazardous waste.

A. Used oil mixed with a hazardous waste that exhibits any of the characteristics of part 7045.0131, subparts 2 to 7, is regulated as hazardous waste. If it is burned for energy recovery, it is regulated as a hazardous waste fuel under part 7045.0692 provided the mixture continues to exhibit any of those characteristics. If the mixture no longer exhibits any of those characteristics and is to be burned for energy recovery, it is regulated as a used oil fuel under part 7045.0695. If the mixture no longer exhibits any of those characteristics and is not burned for energy recovery, it is subject to the requirements of part 7045.0125.

B. Used oil mixed with hazardous waste listed in part 7045.0135 is a hazardous waste. If it is to be burned for energy recovery, it is regulated as a hazardous waste fuel under part 7045.0692.

7045.0120 EXEMPT WASTES.

The following wastes may be stored, labeled, transported, treated, processed, and disposed of without complying with the requirements of this chapter:

A. to L. [Unchanged.]

M. used oil which does not contain waste listed in part 7045.0135 and is to be recycled;

N. a sample of waste, water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition when:

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Proposed Rules

(1) to (6) [Unchanged.]

~~Q. N.~~ pulping liquors (for example, black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless they are accumulated speculatively as defined in part 7045.0020;

~~P. O.~~ spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in part 7045.0020; or

~~Q. P.~~ secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided that:

(1) to (4) [Unchanged.]

7045.0125 MANAGEMENT OF WASTE BY USE, REUSE, RECYCLING, AND RECLAMATION.

Subpart 1. **Scope.** This part regulates hazardous waste ~~and used oil~~ that is to be recycled except for use constituting disposal as provided in part 7045.0665, hazardous waste ~~utilized~~ used for precious metals recovery as provided in part 7045.0675; ~~or spent lead-acid batteries being reclaimed as provided in part 7045.0685; hazardous waste fuel being burned for energy recovery as provided in part 7045.0692; or used oil fuel being burned for energy recovery as provided in part 7045.0695.~~

Subp. 3. [Unchanged.]

Subp. 3a. Management requirements for used oil.

A. Used oil that is recycled in some other manner than being burned for energy recovery is not subject to the requirements of parts 7045.0205 to 7045.0695 and 7045.1300 to 7045.1380.

B. Used oil that is not recycled is regulated as a hazardous waste and is subject to the applicable requirements of parts 7045.0205 to 7045.0695 and 7045.1300 to 7045.1380.

C. Used oil that is to be burned for energy recovery is regulated under part 7045.0695. Used oil that is mixed with hazardous waste and is burned for energy recovery is regulated under part 7045.0692 and the applicable requirements of part 7045.0102.

Subp. 4. **Management of specific hazardous wastes.** Management of the following wastes when recycled, is not subject to regulation under parts 7045.0205 to ~~7045.0685~~ 7045.0695 and 7045.1300 to 7045.1380:

A. industrial ethyl alcohol that is reclaimed, except as provided in subpart 12;

B. used batteries or used battery cells returned to a battery manufacturer for regeneration; ~~and~~

C. scrap metal;

D. fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if the wastes result from normal petroleum refining, production, and transportation practices;

E. oil that is reclaimed from hazardous wastes that are generated from normal petroleum refining, production, and transportation practices, and that is to be refined along with normal process streams at a petroleum refining facility;

F. coke and coal tar from the iron and steel industry that contain EPA Hazardous Waste No. K087 listed under part 7045.0135, subpart 3, item L, subitem (2), (decanter tank tar sludge from coking operations) from the iron and steel production process;

G. hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from the hazardous wastes, where the hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil if the resulting fuel meets the used oil specification under part 7045.0695, subpart 1, item B, subitem (1), and no other hazardous wastes are used to produce the hazardous waste fuel;

H. hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining, production, and transportation practices, where the hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, if the fuel meets the used oil fuel specification under part 7045.0695, subpart 1, item B, subitem (1);

I. oil that is reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, and is burned as a fuel without reintroduction to a refining process, if the reclaimed oil meets the used oil fuel specification under part 7045.0695, subpart 1, item B, subitem (1); and

J. petroleum coke produced from petroleum refinery hazardous wastes containing oil at the same facility at which the wastes were generated, unless the resulting coke product exhibits one or more of the characteristics of hazardous waste in part 7045.0131.

Subp. 5. Requirements for use of hazardous wastes as feedstock.

A. Except as provided in items B to D, hazardous wastes that are shown to be recycled by being ~~utilized~~ used in a manner specified in subitems (1) to (3), are not subject to regulation under parts 7045.0205 to ~~7045.0685~~ 7045.0695 and 7045.1300 to 7045.1380. This subpart does not apply to wastes being accumulated speculatively as defined in part 7045.0020, or being managed

by use constituting disposal, as regulated under part 7045.0665 or burning for energy recovery, as regulated under part 7045.0665, ~~or subpart 40 as regulated in part 7045.0692~~. Hazardous wastes are considered to be used as feedstock if they are:

(1) to (3) [Unchanged.]

B. to D. [Unchanged.]

Subp. 6. Requirements for reclamation of specific hazardous wastes.

A. [Unchanged.]

B. This subpart does not apply to hazardous wastes being accumulated speculatively as defined in part 7045.0020 or being managed by use constituting disposal, as regulated under part 7045.0665 or being burned for energy recovery ~~under subpart 40 as regulated by part 7045.0692~~.

Subp. 7. **Generator requirements.** Except as provided in subpart 3a, 4, 5, or 6, or ~~40 part 7045.0695~~, generators of hazardous waste destined for recycle, are subject to the requirements of parts 7045.0205 to 7045.0304.

Subp. 8. **Transporter requirements.** Except as provided in subpart 3a, 4, 5, or 6, or ~~40 part 7045.0695~~, transporters of hazardous waste destined for recycle are subject to the requirements of parts 7045.0351 to 7045.0397.

Subp. 9. **Facility requirements.** Except as provided in subpart 3a, 4, 5, or 6, or ~~40 parts 7045.0692 and 7045.0695~~, owners or operators of facilities which recycle hazardous waste are subject to the following requirements:

A. and B. [Unchanged.]

Subp. 10. and 11. [See Repealer.]

Subp. 12. [Unchanged.]

7045.0214 EVALUATION OF WASTES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Wastes generated by treatment, storage, or disposal.** Wastes generated by treatment, storage, or disposal of hazardous waste are as follows:

A. Except as provided in items B ~~and~~ C, and D, any waste generated from the treatment, storage, or disposal of hazardous waste, including any sludge, spill residue, ash, emission control dust or leachate, but not including precipitation run-off, is a hazardous waste if it meets the criteria of subpart 2 or if it is derived from a waste that is listed in part 7045.0135.

B. [Unchanged.]

C. Materials that have been reclaimed from hazardous wastes and from wastes that have been reclaimed that are beneficially used are not hazardous wastes unless the reclaimed material is used in a manner constituting disposal under part 7045.0665 or burned for energy recovery under part ~~7045.0125~~, ~~subpart 40~~ 7045.0692.

D. Wastes from burning any of the materials exempted from regulation by part 7045.0125, subpart 4, items D to J, are not hazardous wastes.

7045.0219 SPECIAL REQUIREMENTS FOR SMALL QUANTITY GENERATORS OF HAZARDOUS WASTE.

Subpart 1. **Applicability; quantities.** A generator is a small quantity generator subject to the requirements of subparts 2 to 6 if, in a calendar month, he or she generates less than:

A. to C. [Unchanged.]

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Accumulation on-site.** A small quantity generator who does not have a permit or interim status may accumulate hazardous waste on-site under the following conditions: if the quantity of hazardous waste accumulated at any time exceeds the quantities ~~set forth~~ in item A or B, whichever applies, the small quantity generator must manage all of the accumulated waste in accordance with all the generator requirements ~~set forth~~ in parts 7045.0205 to 7045.0304, excluding this part, but does not lose the small quantity generator status.

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

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Proposed Rules

(1) A small quantity generator who in a calendar month generates at least 100 kilograms of waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E₂ may accumulate that waste on-site for 180 days or less if the quantity of waste accumulated on-site never exceeds 3,000 kilograms and the small quantity generator meets all the requirements of subpart 5. For purposes of this subitem, the time period for accumulation begins when the generator begins accumulation in a container or tank. If the small quantity generators regulated under this subitem mix used oil with hazardous waste, they must meet the requirements under part 7045.0102, subpart 3.

(2) A small quantity generator who in a calendar month generates less than 100 kilograms of waste not listed as acute hazardous waste in part 7045.0135, subpart 2, 3, or 4, item E may accumulate that waste on-site indefinitely until 1,000 kilograms of waste are accumulated, at which point the small quantity generator may only store the waste on-site for a period of 180 days following the date the 1,000 kilogram limit is reached. A small quantity generator accumulating waste under this subitem must meet the requirements of subpart 5, except for subpart 5, item B, subitems (2) to (5). If the small quantity generators regulated under this subitem mix used oil with characteristic hazardous waste, they must meet the requirements under subpart 6. Small quantity generators regulated under this subitem who mix used oil with listed hazardous waste must meet the hazardous waste fuel requirements under part 7045.0692 if the waste is to be burned for energy recovery.

(3) [Unchanged.]

B. [Unchanged.]

Subp. 5. Management requirements.

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

(1) to (5) [Unchanged.]

(6) parts 7045.0566 and 7045.0568; ~~and~~

(7) parts 7045.0626 and 7045.0629; and

(8) as applicable, parts 7045.0692 and 7045.0695.

B. and C. [Unchanged.]

Subp. 6. **Mixtures.** A small quantity generator's hazardous waste may be mixed as specified in items A to C and be subject to the reduced requirements of this rule.

A. Hazardous waste may be mixed with nonhazardous waste pursuant to part 7045.0102 and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity generation and accumulation limitations identified in this rule unless the resultant mixture is hazardous pursuant to part 7045.0102.

B. A waste that is hazardous solely for the characteristic of ignitability may be mixed with used oil that is generated on-site and regulated as used oil fuel under part 7045.0695 if the waste mixed is hazardous solely for the characteristic of ignitability under part 7045.0131, subpart 2, and the following conditions are met:

(1) the ignitable waste is generated by a small quantity generator who in a calendar month generates a total of less than 100 kilograms of hazardous waste;

(2) the ignitable waste has a flash point of 100 degrees Fahrenheit or greater, is not a metal bearing paint waste, or is not gasoline; and

(3) the concentration of ignitable waste in the used oil does not exceed ten percent by volume.

C. Mixtures that do not meet the criteria in item B are subject to part 7045.0102, subpart 3.

7045.0665 USE CONSTITUTING DISPOSAL.

Subpart I. [Unchanged.]

Subp. 1a. Land application prohibition.

A. The following materials may not be placed in mixed municipal solid waste or applied as a dust suppressant or used for road treatment:

(1) waste oil;

(2) used oil;

(3) hazardous waste; and

(4) a mixture of hazardous waste and other material, waste oil, or used oil.

B. A person may not otherwise place used oil in or on the land, unless approved by the commissioner. The application of used oil in or on the land shall only be approved in the case of an accidental oil spill.

Subp. 2. to 4. [Unchanged.]

7045.0692 HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY.

Subpart 1. Scope. This part applies to hazardous wastes that are burned for energy recovery in a boiler or industrial furnace that is not regulated by the thermal treatment standards in part 7045.0542 or 7045.0640, except:

A. Gaseous emissions recovered from hazardous waste management activities when the gas is burned for energy recovery.

B. Used oil that exhibits a characteristic of hazardous waste as identified in part 7045.0131, provided that it has not been intentionally mixed with a characteristic hazardous waste, and is regulated as a used oil fuel in part 7045.0695.

C. Hazardous wastes that are exempt from regulation under part 7045.0125, subparts 3a and 4, items D to J.

D. Mixtures of used oil and waste that is hazardous solely for the characteristic of ignitability in part 7045.0131, subpart 2, provided the waste is generated by a person who in a calendar month generates less than 100 kilograms of hazardous waste. This mixture is regulated as provided in part 7045.0219, subpart 6. If the waste is generated by a person who in a calendar month generates at least 100 kilograms of hazardous waste, part 7045.0102, subpart 3, item A, applies.

E. Used oil being burned for energy recovery as regulated in part 7045.0695.

Subp. 2. Prohibitions.

A. A person may market hazardous waste fuel only:

(1) to persons who have notified the Environmental Protection Agency of their hazardous waste fuel activities and have an EPA identification number; and

(2) if the fuel is to be burned, to persons who burn the fuel in boilers or industrial furnaces identified in item B.

B. Hazardous waste fuel may be burned for energy recovery only in industrial furnaces as defined in part 7045.0020, or boilers as defined in part 7045.0020, or as provided in part 7045.0075, subpart 4, that meet one of the following criteria:

(1) industrial boilers located on the site of an establishment engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(2) utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

C. Hazardous waste or a fuel that contains a hazardous waste may not be burned in a cement kiln unless the kiln fully complies with the thermal treatment standards of part 7045.0542.

Subp. 3. Standards applicable to generators of hazardous waste fuel. Generators of hazardous waste that is used as a fuel or used to produce a fuel are subject to parts 7045.0205 to 7045.0304. Generators who market hazardous waste fuel to a burner are also subject to subpart 5. Generators who are burners are also subject to subpart 6.

Subp. 4. Standards applicable to transporters of hazardous waste fuel. Transporters of hazardous waste fuel and hazardous waste that is used to produce a fuel are subject to parts 7045.0351 to 7045.0397.

Subp. 5. Standards applicable to marketers of hazardous waste fuel. Marketers are subject to the requirements in items A to F.

A. A marketer of hazardous waste that is used as a fuel or used to produce a fuel must notify the Environmental Protection Agency to identify hazardous waste fuel activities. Even if a marketer has previously notified the Environmental Protection Agency of hazardous waste management activities other than hazardous waste fuel activities, a marketer must renotify specifically to identify hazardous waste fuel activities.

B. A marketer must comply with the prohibitions in subpart 2, item A.

C. If a marketer is a generator, or becomes a generator by initiating a shipment of hazardous waste fuel, the marketer must comply with parts 7045.0205 to 7045.0304. If the marketer operates a facility, the marketer must comply with parts 7045.0450 to 7045.0534. If the marketer is operating a facility under interim status, the marketer must comply with parts 7045.0552 to 7045.0632. If the marketer stores hazardous waste, the marketer must comply with the agency's permitting procedures in chapter 7001 for storage of hazardous waste.

D. Before a marketer initiates the first shipment of hazardous waste fuel to a burner or another marketer, a one-time written and signed notice from the burner or marketer must be obtained certifying that:

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(1) the burner or marketer has notified the Environmental Protection Agency and identified the waste-as-fuel activities; and

(2) if the recipient is a burner, the burner will burn the hazardous waste fuel only in an industrial furnace or boiler identified in subpart 2, item B.

E. Before a marketer accepts the first shipment of hazardous waste fuel from another marketer, the receiving marketer must provide the other marketer with a one-time written and signed notice certifying that the receiving marketer has notified the Environmental Protection Agency and identified the receiving marketer's hazardous waste fuel activities.

F. In addition to the applicable record keeping requirements of parts 7045.0205 to 7045.0304, 7045.0450 to 7045.0534, and 7045.0552 to 7045.0632, a marketer must keep a copy of each certification notice received or sent for three years from the date the marketer last engaged in a hazardous waste fuel marketing transaction with the person who sent or received the certification notice.

Subp. 6. Standards applicable to burners of hazardous waste fuel. Owners and operators of industrial furnaces and boilers identified in subpart 2, item B, that burn hazardous fuel are subject to the requirements in items A to F.

A. A burner must notify the Environmental Protection Agency of hazardous waste fuel activities and obtain an EPA identification number. Even if a burner has previously notified the Environmental Protection Agency of the burner's hazardous waste management activities and obtained an EPA identification number, the burner must renotify the Environmental Protection Agency to identify the burner's hazardous waste fuel activities.

B. Before a burner accepts the first shipment of hazardous waste fuel from a marketer, the burner must provide the marketer with a one-time written and signed notice certifying that:

(1) the burner has notified the Environmental Protection Agency and identified the burner's waste-as-fuel activities; and

(2) the burner will burn the fuel only in a boiler or furnace identified in subpart 2, item B.

C. In addition to the applicable record keeping requirements of parts 7045.0478 to 7045.0482 and 7045.0584 to 7045.0588, a burner must keep a copy of each certification notice that the burner sends to a marketer for three years from the date the burner last receives hazardous waste fuel from that marketer.

D. Generators who accumulate hazardous waste fuel before burning on-site within the accumulation time period allowed in part 7045.0292 must comply with that part. Small quantity generators who accumulate hazardous waste fuel before burning on-site within the accumulation time period allowed in part 7045.0219 must comply with that part. Burning by the generator of a hazardous waste that is a sludge or is or contains a waste listed in part 7045.0135 for reasons other than ignitability or is or contains a waste that is toxic under part 7045.0131, subpart 6, is subject to the additional requirements of item E, subitem (2).

E. Generators who accumulate waste for longer than the time periods in item D, and burners who receive waste from off-site and store it, must comply with the following requirements:

(1) the agency's permitting procedures in chapter 7001 for hazardous waste storage facilities, parts 7045.0205 to 7045.0536, 7045.0544, 7045.0552 to 7045.0632, 7045.1000 to 7045.1030, and 7045.1300 to 7045.1380; and

(2) if the hazardous waste to be burned is a sludge or is or contains a waste listed in part 7045.0135 for reasons other than ignitability, or is or contains a waste that is toxic under part 7045.0131, subpart 6, then parts 7045.0542, excluding subparts 4, item C, and 7, item A, subitem (2); and 7045.0640 apply.

F. A burner must abide by Minnesota and federal air quality regulations, including obtaining a permit if necessary. Compliance with this part does not release a burner from any obligation to comply with local air quality ordinances or codes.

7045.0695 USED OIL BURNED FOR ENERGY RECOVERY.

Subpart 1. Scope. The requirements of this part apply to used oil that is burned for energy recovery in a boiler or industrial furnace that is not regulated under part 7045.0542 or 7045.0640. Used oil burned for energy recovery is subject to regulation under this part rather than as hazardous waste fuel under part 7045.0692, even if it exhibits a characteristic of hazardous waste identified in part 7045.0131, provided that it has not been intentionally mixed with a characteristic hazardous waste. Used oil intentionally mixed with a characteristic hazardous waste as identified in part 7045.0131 is regulated as specified in part 7045.0102, subpart 3.

A. The requirements of this part do not apply to subitems (1) and (2), which are regulated as specified.

(1) Used oil that has been intentionally mixed with a hazardous waste listed in part 7045.0135 is regulated under part 7045.0692 if it is to be burned for energy recovery.

(2) Used oil containing more than 1,000 parts per million of total halogens is presumed to have been mixed with a halogenated hazardous waste listed in part 7045.0135 and is a hazardous waste. It is subject to the requirements of part 7045.0692 if it is to be burned for energy recovery. This presumption may be rebutted by a demonstration that the used oil does not contain hazardous waste.

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B. Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation as off-specification used oil fuel if it exceeds any of the allowable levels of the constituents and properties in subitem (1). On-specification used oil fuel as defined in part 7045.0020, subpart 60a, is subject only to the analysis and record keeping requirements under subpart 3, item B, subitems (1) and (8).

(1) Used oil exceeding any of the following allowable levels, for the constituent or property listed, is subject to full regulation under this part when burned for energy recovery:

<u>Constituent/property</u>	<u>Allowable level</u>
<u>Arsenic, total</u>	<u>5 parts per million maximum</u>
<u>Cadmium, total</u>	<u>2 parts per million maximum</u>
<u>Chromium, total</u>	<u>10 parts per million maximum</u>
<u>Lead, total</u>	<u>100 parts per million maximum</u>
<u>Flash Point</u>	<u>100 degrees Fahrenheit minimum</u>
<u>Total Halogens</u>	<u>4,000 parts per million maximum</u>

(2) The specifications in subitem (1) do not apply to used oil fuel mixed with a listed hazardous waste identified in part 7045.0135. Such wastes are regulated under part 7045.0692.

(3) If the presumption of mixing is not successfully rebutted, used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided in item A, subitem (2). This used oil is subject to part 7045.0692 rather than this part when burned for energy recovery. If the presumption of mixing is successfully rebutted and the oil is on-specification used oil, it is subject only to the reduced requirements identified in subpart 3, item B, subitems (1) and (8).

Subp. 2. Standards applicable to generators of used oil to be burned for energy recovery. Except as provided in items A and B, generators of used oil are not subject to this subpart.

A. Generators who market used oil directly to a burner are subject to subpart 3.

B. Generators who burn used oil are subject to subpart 4.

Subp. 3. Standards applicable to marketers of used oil to be burned for energy recovery.

A. The following persons are not marketers:

(1) Used oil generators, and collectors who transport used oil received only from generators, unless the generator or collector markets the used oil directly to a person who burns it for energy recovery. Generators and collectors who market to incidental burners are not marketers subject to this subpart.

(2) Persons who market only on-specification used oil fuel and who are not the first person to claim the used oil meets the specifications of subpart 1, item B.

B. Marketers are subject to the following requirements:

(1) Used oil fuel is subject to regulation as off-specification used oil fuel under this part unless the marketer obtains analyses or other information documenting that the used oil is on-specification used oil fuel.

(2) A person may market off-specification used oil for energy recovery only:

(a) to burners or other marketers who have notified the Environmental Protection Agency of their used oil management activities stating the location and general description of those activities, and who have an EPA identification number; and

(b) to burners who burn the used oil in an industrial furnace or boiler identified in subpart 4, item A, subitems (1) and (2).

(3) Even if a marketer has previously notified the Environmental Protection Agency of the marketer's hazardous waste management activities and obtained an EPA identification number, the marketer must renotify the Environmental Protection Agency to identify the marketer's used oil management activities.

(4) When a marketer initiates a shipment of off-specification used oil fuel, the marketer must prepare and send the receiving facility an invoice containing the following information:

(a) a unique invoice number;

(b) the marketer's own EPA identification number and the EPA identification number of the receiving facility;

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(c) the names and addresses of the shipping and receiving facilities;

(d) the quantity of off-specification used oil fuel to be delivered;

(e) the dates of shipment or delivery; and

(f) the following statement: "This used oil is subject to EPA regulation under Code of Federal Regulations, title 40, section 266."

(5) Used oil that meets the definition of combustible liquid or flammable liquid is subject to the United States Department of Transportation hazardous materials regulations in Code of Federal Regulations, title 49, sections 100 to 177.

(6) Before a marketer initiates the first shipment of off-specification used oil fuel to a burner or other marketer, the marketer must obtain a one-time written and signed notice from the burner or marketer certifying that:

(a) the burner or marketer has notified the Environmental Protection Agency stating the location and general description of the marketer's used oil management activities; and

(b) if the recipient is a burner, the burner will burn the off-specification used oil fuel only in an industrial furnace or boiler identified in subpart 4, item A, subitems (1) and (2).

(7) Before a marketer accepts the first shipment of off-specification used oil fuel from another marketer subject to the requirements of this part, the first marketer must provide the other marketer with a one-time written and signed notice certifying that the first marketer has notified the Environmental Protection Agency of the first marketer's used oil management activities.

(8) A marketer who first claims under item B, subitem (1), that used oil fuel meets the specifications must keep copies of analysis, or other information used to make the determination, for three years from the date of analysis. That marketer must also record in an operating log and keep for three years the information in units (a) to (d) on each shipment of on-specification used oil fuel. On-specification used oil fuel is not subject to further regulation, unless it is subsequently mixed with hazardous waste or unless it is mixed with used oil so that it no longer meets the specifications:

(a) the name and address of the facility receiving the shipment;

(b) the quantity of used oil fuel delivered;

(c) the date of shipment and delivery; and

(d) a cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specifications required under this subitem.

(9) A marketer who receives or initiates an invoice under the requirements of this subpart must keep a copy of each invoice for three years from the date the invoice is received or prepared. In addition, a marketer must keep a copy of each certification notice that the marketer received or sent for three years from the date that the marketer last engaged in an off-specification used oil fuel marketing transaction with the person who sent or received the certification notice.

Subp. 4. Standards applicable to burners of used oil burned for energy recovery. Owners and operators of devices that burn used oil fuel are subject to the requirements in items A to G.

A. Off-specification used oil fuel may be burned for energy recovery only in industrial furnaces defined in part 7045.0020, or in boilers as defined in part 7045.0020, or as provided in part 7045.0075, subpart 4, that meet the following criteria:

(1) industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

(2) utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale; or

(3) used oil-fired space heaters provided that:

(a) the heater burns only used oil that the owner or operator generates or used oil received from do-it-yourself oil changers who generate used oil as household waste;

(b) the heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and

(c) the combustion gases from the heater are vented to the out-of-doors.

B. Burners of off-specification used oil fuel and burners of on-specification used oil fuel who are the first to claim that the oil meets the specifications provided in subpart 1, item B, must notify the Environmental Protection Agency stating the location and general description of used oil management activities. Burners who meet the following criteria are not required to notify the Environmental Protection Agency:

(1) burners of on-specification used oil fuel who receive the oil from a marketer who has previously notified the Environmental Protection Agency;

- (2) owners and operators of used oil-fired space heaters that burn used oil fuel under item A, subitem (3); and
- (3) burners who burn on-specification used oil that they generate.

C. Before a burner accepts the first shipment of off-specification used oil fuel from a marketer, the burner must provide the marketer with a one-time written and signed notice certifying that:

(1) the burner has notified the Environmental Protection Agency stating the location and general description of the burner's used oil management activities; and

(2) the burner will burn the used oil only in an industrial furnace or boiler identified in item A, subitems (1) and (2).

D. A person who burns used oil fuel that has been generated on-site is subject to regulation under this subpart unless that person obtains analysis or other information documenting that the oil is on-specification used oil.

E. Burners who process, blend, or otherwise manage off-specification used oil to meet the specifications provided under subpart 1, item B, must obtain analyses or other information documenting that the oil is on-specification used oil.

F. A burner must retain a copy of the invoice given from a marketer for three years from the date the invoice is received. Burners must also keep for three years copies of all analyses of used oil fuel as may be required by items D and E. In addition, the burner must keep a copy of each certification notice that the burner sends to a marketer for three years from the date the burner last received off-specification used oil fuel from that marketer.

G. Burners must abide by Minnesota and federal air quality regulations, including obtaining a permit if necessary. Compliance with this part does not release a burner from any obligation to comply with local air quality ordinances or codes.

REPEALER. Minnesota Rules, parts 7045.0100; and 7045.0125, subparts 10 and 11, are repealed.

Pollution Control Agency

Hazardous Waste Division

Proposed Permanent Rules Relating to Underground Storage Tank Training and Certification

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) intends to adopt the above-entitled rule 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 (1988). The MPCA's authority to adopt the rule is set forth in *Minnesota Statutes* § 116.491 (1988).

All persons have until 4:30 p.m. on October 11, 1989, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the MPCA will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1988). Comments or written requests for a public hearing must be submitted to:

Beth G. Lockwood
Tanks and Spills Section
Hazardous Waste Division
Minnesota Pollution Control Agency

520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 297-3081

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

The proposed rules, if adopted, will establish a certification program for contractors involved in the installation, removal, or repair of underground storage tanks. A training and certification program will also be established for on-site supervisors of these projects. The proposed rules set forth the requirements and procedures for obtaining and renewing this certification. In addition, the rules outline the minimum training course requirements for on-site supervisors and the procedures for obtaining approval of a training course. The proposed rules are published below. One free copy of the rules is available upon request from Beth Lockwood at the address and telephone number stated above.

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

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 13.115 (1988), "Small business considerations in rulemaking," that the proposed rules will have a minimal effect on small businesses. In drafting the proposed rules, the MPCA considered the potential impact on small businesses. A discussion of these considerations can be found in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent 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 rule as adopted, must submit a written request to Beth Lockwood of the Tanks and Spills Section.

Gerald L. Willet
Commissioner

Rules as Proposed (all new material)

7105.0010 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the following terms and abbreviations have the meanings given them. Terms that are not specifically defined have the meanings given them in *Minnesota Statutes*, sections 115.01, 115C.02, and 116.46.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. **Approved training provider.** "Approved training provider" means a person approved by the commissioner to provide the installer training course or the final examination.

Subp. 4. **Certificate.** "Certificate" means a document issued by the agency to a person who has met the certification requirements of this chapter.

Subp. 5. **Certified contractor.** "Certified contractor" means a contractor that has been certified by the agency under the requirements of this chapter to engage in the business of installing, repairing, or closing underground storage tank systems.

Subp. 6. **Certified supervisor or supervisor.** "Certified supervisor" or "supervisor" means an individual certified by the agency under the requirements of this chapter to perform one or more storage tank projects. This individual provides supervision and direction to workers engaged in a storage tank project.

Subp. 7. **Closure or removal.** "Closure" or "removal" means permanently taking an underground storage tank out of service by either closing it in place, removing it from the ground, or converting it to store a nonregulated substance, as required by Code of Federal Regulations, title 40, part 280, or its counterpart in *Minnesota Rules* when adopted.

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

Subp. 9. **Contractor.** "Contractor" means a corporation, partnership, or duly constituted individual proprietorship that holds itself as being qualified to engage in storage tank projects.

Subp. 10. **Critical junctures.**

A. "Critical junctures" in the case of an installation means the steps in the installation of an underground storage tank system that are important to the prevention of releases, including but not limited to:

- (1) preparation of the excavation immediately before receiving backfill and the tank;
- (2) setting of the tank and the piping, including placement of anchoring devices, backfill to the level of the tank, and strapping, if any;
- (3) any time during the installation in which components of the piping are connected, field coated, or cathodically protected;
- (4) all pressure testing of the tank system, including associated piping, performed during the installation; and
- (5) completion of backfill and filling of the excavation.

B. "Critical junctures" in the case of a tank removal means the steps in the removal project that are important to the prevention of releases, including but not limited to:

- (1) the cleaning and purging of the tank system;
- (2) the actual excavation and removal of the tank system;
- (3) all testing associated with the cleaning and purging processes; and
- (4) any time during the removal in which components of the tank are disconnected or capped.

C. "Critical junctures" in the case of a repair means the steps in the repair project that are comparable to the steps listed for item A in terms of their importance in the prevention of releases, including but not limited to:

- (1) the actual excavation of existing tanks or piping;
- (2) the actual performance of the repairs to the tank system;
- (3) any time during the repair project in which components of the piping are connected; and
- (4) any time during the repair project in which the tank or its associated piping is tested.

Subp. 11. **Day.** "Day," when used to describe a day of training, equals eight hours including breaks and lunch.

Subp. 12. **Diploma.** "Diploma" means a document verifying the successful completion of the required training course.

Subp. 13. **Disciplines of certification or disciplines.** "Disciplines of certification" or "disciplines" means the categories of tank projects within which a person may be certified under the requirements of this chapter. Each discipline includes the storage tank projects listed in items A to C.

A. The discipline of "installation" includes installations as defined in subpart 15, as well as the correction, restoration, modification, or upgrading of tank system piping or appurtenances.

B. The discipline of "repair" includes the correction restoration, modification, or upgrading of the tank vessel itself, for example, repairing a hole in a tank or relining a tank. The discipline of repair does not include other storage tank projects defined as "repair" in subpart 21 which do not involve the tank vessel itself.

C. The discipline of "closure" includes the storage tank projects defined in subpart 7.

Subp. 14. **EPA.** "EPA" means the United States Environmental Protection Agency.

Subp. 15. **Installation.** "Installation" means the work involved in placing an underground storage tank in position and preparing it to be placed in service or the movement of an underground storage tank to a new position and preparing it to be placed in service.

Subp. 16. **Installer.** "Installer" means a person who installs, repairs, or closes an underground storage tank.

Subp. 17. **Operator.** "Operator" means a person in control of, or having responsibility for, the daily operation of a tank, and who was in control of, or had responsibility for, the daily operation of the tank immediately before discontinuation of its use.

Subp. 18. **Owner.** "Owner" means a person who holds title to, controls, or possesses an interest in a tank and who held title to, controlled, or possessed an interest in a tank immediately before discontinuation of its use. Owner does not include a person who holds an interest in a tank solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of the tank.

Subp. 19. **Person.** "Person" means an individual, partnership, association, public or private corporation, or other legal entity, including the United States government, an interstate commission or other body, the state, or any agency, board, bureau, office, department, or political subdivision of the state, but does not include the Pollution Control Agency.

Subp. 20. **Regulated substance.** "Regulated substance" means:

A. a hazardous material listed in Code of Federal Regulations, title 49, section 172.101; or

B. petroleum, including:

(1) gasoline and fuel oil as defined in *Minnesota Statutes*, section 296.01, subdivisions 3 and 4;

(2) crude oil or a fraction of crude oil that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute;

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(3) constituents of gasoline and fuel oil under subitem (1) and constituents of crude oil under subitem (2); and

(4) petroleum-based substances that are comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, and used oils.

Subp. 21. **Repair.** "Repair" means the correction, restoration, modification, or upgrading of a tank system, including but not limited to the addition of cathodic protection systems; the replacement of piping, valves, fill pipes, or vents; the lining of a tank through the application of materials such as epoxy resins; and other similar activities that may affect the integrity of the tank system.

Subp. 22. **State.** "State" means the state of Minnesota.

Subp. 23. **Storage tank project.** "Storage tank project" means the installation, repair, or closure of an underground storage tank.

Subp. 24. **Tank or tank system.** "Tank" or "tank system" has the same meaning as underground storage tank.

Subp. 25. **Underground storage tank.** "Underground storage tank" means any one or a combination of containers including tanks, vessels, enclosures, or structures and underground appurtenances connected to them, that is used to contain or dispense an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected to them, is ten percent or more beneath the surface of the ground.

7105.0020 PURPOSE.

This chapter implements the requirement of *Minnesota Statutes*, section 116.491, that the agency require a person who installs, repairs, or takes an underground storage tank permanently out of service to first obtain a certificate of competency from the agency.

7105.0030 GENERAL PROVISIONS.

Subpart 1. **Certification requirements and deadlines.** No person may install, repair, or close a tank system after [insert date six months after the effective date of this chapter] unless:

A. a supervisor certified in the appropriate discipline is physically present on site at all critical junctures during the storage tank project; and

B. the certified supervisor in item A is also a certified contractor or is in the employ of a certified contractor.

Subp. 2. **Certificate availability.** A copy of the contractor's current certificate must be at the work location and posted in a conspicuous place. Certified supervisors must have copies of current certificates issued by the agency at the location where they are supervising work.

Subp. 3. **Tank owner or operator requirements.** Owners or operators of an underground storage tank must not allow a storage tank project to be performed on their tank system, except in compliance with subpart 1.

7105.0040 EXCLUSIONS.

The following underground storage tanks are excluded from the requirements of this chapter:

A. a wastewater treatment tank system that is part of a wastewater treatment facility regulated under United States Code, title 33, section 1317 or 1342;

B. equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tank systems and electrical equipment tank systems;

C. tank systems with a capacity of 110 gallons or less;

D. tank systems that contain a de minimus concentration of regulated substances;

E. an emergency spill or overfill containment tank system that is expeditiously emptied after use;

F. farm or residential tank systems of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

G. tank systems of 1,100 gallons or less capacity used for storing heating oil for consumptive use on the premises where stored;

H. septic tanks;

I. pipeline facilities, including gathering lines, regulated under United States Code, title 49, chapter 24 or 29;

J. surface impoundments, pits, ponds, or lagoons;

K. storm water or waste water collection systems;

L. flow-through process tank systems;

M. tank systems located in an underground area such as a basement, cellar, mine working, drift, shaft, or tunnel if the tank is located on or above the surface of the floor;

N. wastewater treatment tank systems;

O. tank systems containing radioactive material that is regulated under the Atomic Energy Act of 1954, United States Code, title 42, sections 2011 to 2296;

P. a tank system that is part of an emergency generator system at nuclear power generator facilities regulated by the Nuclear Regulatory Commission under Code of Federal Regulations, title 10, section 50, Appendix A;

Q. airport hydrant fuel distribution systems; and

R. underground storage tank systems with field constructed tanks.

7105.0050 CONTRACTOR CERTIFICATION.

Subpart 1. **Contractor certification requirements.** To obtain certification from the commissioner, an applicant for a contractor's certificate shall:

A. be, or have in its employ, a certified supervisor who will exercise responsible supervisory control over a given storage tank project and who will be physically present on site at the critical junctures in the tank project;

B. submit documentation showing that it has comprehensive general liability insurance, surety bonds, or liquid company assets that, in combination, represent a value of not less than five times the value of the largest storage tank project contract performed by the contractor during the previous two years; and

C. complete the application procedures in subpart 3 or 4.

Subp. 2. **Disciplines of contractor certification.** A contractor may be certified in one or more of the following disciplines providing it employs supervisors that are certified in the disciplines for which the contractor seeks certification, as defined in part 7105.0010, subpart 13:

A. installation;

B. repair; and

C. closure.

Subp. 3. **Application procedures for contractor certification.** To apply for certification as a certified contractor, the following information must be submitted to the agency on a form provided by the agency:

A. the full name, address, and telephone number of the firm;

B. any names held by the firm within the previous five years;

C. the discipline for which the applicant wishes certification;

D. the nature of the storage tank projects to be conducted;

E. a summary of the project history of the firm over the two-year period immediately preceding the application;

F. documentation that the contractor meets the financial responsibility requirements in subpart 1, item B;

G. identification of industry or government licenses held by the firm related to underground storage tanks;

H. the names of employees certified by the agency to perform and supervise storage tank projects, including identification of the specific disciplines for which they are certified, certification numbers, and expiration dates;

I. a statement signed and notarized by at least one active officer, partner, owner, or designated managerial representative of the contractor that certifies that:

(1) the person signing has obtained a copy of the applicable laws and rules pertaining to the regulation of underground storage tanks in the state, including the standards of performance in part 7105.0070;

(2) the person signing has read and understands the regulations in subitem (1) and will direct the employees and principals of the company to perform the storage tank projects rendered by the company in a manner that is consistent with their requirements; and

(3) on all storage tank projects a certified supervisor will exercise responsible supervisory control over the work and will be physically present on site at all critical junctures during the storage tank project; and

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Proposed Rules

J. remittance of the contractor certification fee.

The application must be specific to one contractor, but may include a request to be certified in more than one discipline.

Subp. 4. **Application procedures for contractor certification renewals and upgrades.** Certification renewals and upgrades must be applied for as outlined in subpart 3. In addition, a copy of the applicant's most recent contractor certificate must also accompany the application. Completed renewal applications should be submitted no later than 30 days before the expiration date.

Subp. 5. **Length of contractor certification.** Contractor certificates expire two years after the date of issuance.

7105.0060 SUPERVISOR CERTIFICATION.

Subpart 1. **Supervisor certification requirements.** To obtain certification from the commissioner, an applicant for a supervisor's certificate shall:

A. in the two-year period immediately before making the application, have successfully completed an approved five-day training course as outlined in parts 7105.0080 and 7105.0090, or a course approved by the commissioner under subpart 7;

B. have at least two years of tank service experience and have actively participated in the field on a minimum of five underground storage tank projects during the two-year period immediately before making the application, with at least four of these projects being in the discipline for which the individual wishes to be certified. Any experience obtained after [insert date six months after the effective date of this chapter], for the purposes of obtaining initial certification, must be in the employ of a certified contractor and under the immediate and personal supervision of a certified supervisor; and

C. complete the application procedures in subpart 4 or 5.

Subp. 2. **Successful completion of a training course.** Successful completion of a training course includes attending all training hours and passing the final examination.

Subp. 3. **Disciplines of supervisor certification.** An individual, with the appropriate training and experience, may be certified in one or more of the following disciplines, as defined in part 7105.0010, subpart 13:

- A. installation;
- B. repair; and
- C. closure.

Subp. 4. **Application procedures for supervisor certification.** To apply for certification as a certified supervisor, the following information must be submitted to the agency on a form provided by the agency:

- A. the applicant's full name, social security number, job title, name of business, business address, and business phone number;
- B. a copy of the most recent training course diploma;
- C. the date of the final examination and documentation that a passing score was received, if not included on the course diploma;
- D. the discipline for which the applicant wishes certification;
- E. documentation that the experience requirements in subpart 1 have been met; and

F. a signed, notarized statement that the applicant has obtained a copy, read, understands, and will comply with all applicable laws and rules pertaining to the regulation of underground storage tanks in the state, including the standards of performance in part 7105.0070.

The application must be specific to one individual, but may include a request to be certified in more than one discipline.

Subp. 5. **Additional application procedures for supervisor certification renewals and upgrades.** Certification renewals and upgrades must be applied for as outlined in subpart 4. In addition, a copy of the applicant's most recent certificate must accompany the application. Completed renewal applications should be submitted no later than 30 days before the expiration date.

Subp. 6. **Length of supervisor certification.** Supervisor certificates expire two years after the applicant successfully completes the final training course examination.

Subp. 7. **Reciprocity.** The commissioner shall approve a tank installer certification course sponsored by a state or organization other than an approved training provider if the commissioner determines that the course is comparable to the program outlined in parts 7105.0080 and 7105.0090. Persons seeking reciprocity under this subpart shall be required by the commissioner to pass an examination to verify their familiarity with Minnesota's laws pertaining to underground storage tank systems if the commissioner finds that their courses did not adequately address Minnesota's statutes and rules. This examination may be taken any time after the completion of the approved training course and before applying for certification. However, the certificate expires two years after the final day of the approved training course.

7105.0070 STANDARDS OF PERFORMANCE.

Subpart 1. **Standards of performance for contractors and supervisors.** Certified contractors and supervisors shall comply with the standards of performance in items A and B.

A. Certified contractors and supervisors shall perform or undertake only those storage tank projects that conform to accepted industry standards and federal, state, and local laws and safeguard the public life, health, safety and welfare, and the environment.

B. Certified contractors and supervisors must not offer, give, solicit, or receive, either directly or indirectly, any commission, gift, or other valuable consideration to secure work, and shall not make any political contribution with the intent to influence the award of a contract by public authority.

Subp. 2. **Additional standards of performance for supervisors.** In addition to the standards in subpart 1, certified supervisors:

A. shall perform all storage tank projects so that there is no release of the contents of the tank;

B. must not affix the supervisor's signature or certification number to a storage tank project unless it was accomplished under the supervisor's direct control and personal supervision and the supervisor was present at all critical junctures during the storage tank project; and

C. must not certify to an owner that a storage tank project is complete unless it complies with *Minnesota Statutes*, sections 116.46 to 116.50, Code of Federal Regulations, title 40, part 280, subparts A to G, and state technical tank rules adopted under *Minnesota Statutes*, section 116.49, subdivision 1, when adopted. Where storage tank projects are being performed for an owner or operator on a contract basis, both the certified supervisor and the certified contractor for whom the supervisor works are responsible for the accuracy of the representations made.

7105.0080 TRAINING COURSE REQUIREMENTS.

Subpart 1. **Storage tank installer training course requirements.** The storage tank installer training course must be at least five days in length and must include lectures, demonstrations, four hours of hands-on training, course review, and a final written examination. Publications cited are incorporated by reference in part 7105.0130. The following topics must be included in the course:

A. regulatory review providing familiarity with the following codes, statutes, rules, and recommended practices and how they relate to the other course requirements, with particular emphasis on subitem (10):

- (1) PEI's Recommended Practices for Installation of Underground Liquid Storage Systems (PEI/RP 100);
- (2) API's Installation of Underground Petroleum Storage Systems (API Recommended Practice 1615);
- (3) API's Removal and Disposal of Used Underground Petroleum Storage Tanks (API Recommended Practice 1604);
- (4) NFPA's Flammable and Combustible Liquids Code (ANSI/NFPA 30);
- (5) NFPA's Automotive and Marine Service Station Code (ANSI/NFPA 30A);
- (6) EPA's Underground Storage Tanks - Technical Requirements at Code of Federal Regulations, title 40, part 280, subparts A to G;
- (7) parts 7001.0580, 7045.0020, 7045.0528, 7045.0580, 7045.0628, and 7045.0629, relating to hazardous waste tanks;
- (8) *Minnesota Statutes*, sections 116.46 to 116.50;
- (9) *Minnesota Statutes*, chapter 115C; and
- (10) state technical tank rules adopted under *Minnesota Statutes*, section 116.49, subdivision 1, when adopted;

B. legal liabilities and defenses:

- (1) responsibilities of the contractor;
- (2) a discussion of comprehensive general liability policies, claims-made and occurrence policies, and environmental and pollution liability policy clauses;
- (3) state tank contractor liability insurance requirements;
- (4) bonding and the relationship of insurance availability to bond availability;

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Proposed Rules

(5) a discussion of EPA's Underground Storage Tanks Containing Petroleum - Financial Responsibility Requirements at Code of Federal Regulations, title 40, part 280, subpart H; and

(6) third party liabilities and defenses;

C. safety aspects, including discussions on:

(1) OSHA's Safety and Health standards relating to excavations, trenching, and shoring at Code of Federal Regulations, title 29, part 1926, subpart P;

(2) Minnesota Department of Labor and Industry Employee Right-to-Know training standards in part 5206.0700;

(3) fire and explosion hazards;

(4) working around heavy equipment, excavations, hazardous materials, vehicular traffic, overhead and underground obstacles such as power and sewer lines, and other hazardous situations;

(5) personal protective equipment and its proper use; and

(6) safety considerations and precautions, including erecting physical barriers and signs, and trench shoring;

D. underground storage tank installation:

(1) project management:

(a) establishing lines of responsibility;

(b) financial parameters;

(c) planning and mobilization, including lining up work crews and tools, calling subcontractors, and picking up materials;

(d) site visit before bidding;

(e) project team, assigning a project leader;

(f) timing, including completion date and schedules for equipment, materials, and crews;

(g) subcontractors and material suppliers, including coordination of schedules and ordering materials, with consideration given to material compatibility between other equipment and product to be stored;

(h) job site management and allocation of work areas, including areas to safely stockpile materials such as backfill, tanks, and piping, and safe and effective traffic flow for heavy equipment as well as civilian traffic;

(i) safety, including assessing hazards and planning for proper safety equipment;

(j) employee training, including informal field training and formal in-house or outside training;

(k) contingency planning;

(l) progress reports; and

(m) plans and specifications, as-built drawings;

(2) material handling:

(a) transportation, unloading, lifting, lowering, and storage;

(b) steel, fiberglass, and composite tanks and pipe handling requirements; and

(c) single-wall versus double-wall;

(3) preinstallation inspection and testing:

(a) inspection of tanks, pipes, and other materials for size, as well as scratches, dents or other damages, and minor repairs;

(b) preinstallation "soap test" on single-wall and double-wall tanks, including proper soaping techniques, selection of gauges, and proper pressures;

(c) preinstallation testing of tanks shipped under a vacuum;

(d) holiday testing techniques for composite tanks;

(e) isolating and soap testing pipe runs before backfilling;

(f) inspection and testing of impervious liners before backfilling; and

(g) testing and visual inspection of cathodic protection systems, secondary containment, monitoring systems, and overflow prevention systems before placing the tank facility into operation;

(4) excavating and trenching:

- (a) excavation size, depth, bedding, and backfill;
- (b) filter fabrics, sloping, and water problems;
- (c) storage and disposal of excavated materials, contaminated versus uncontaminated;
- (d) adjacent structures;
- (e) safety considerations, including properly sized equipment; and
- (f) piping trench slope and depth considerations;

(5) supplemental restraints:

- (a) reasons for supplemental restraints;
- (b) types and proper installation of supports, foundations, and anchorage;
- (c) water table, flooding, and weather considerations; and
- (d) factors influencing buoyancy, including flotation and anchorage calculation exercises;

(6) backfilling and compaction:

- (a) ballasting;
- (b) types and sizes of backfill materials suitable for composite tanks and steel and fiberglass tanks and piping;
- (c) placement of tanks and piping, including bedding depth and distances between tanks or pipes;
- (d) backfilling and compaction procedures, including the special compaction requirements of sand;
- (e) measuring tank deflection;
- (f) prevention of backfill migration using filter fabrics; and
- (g) grading and paving precautions;

(7) secondary containment:

- (a) types, including double-walled tanks and piping, impervious liners, catchment basins, piping sumps, and concrete vaults;
- (b) installation methods and considerations; and
- (c) material compatibility;

E. piping:

- (1) leak statistics concerning improperly installed piping;
- (2) installation methods:
 - (a) types and specific installation requirements, including galvanized steel, fiberglass, coated, and single-walled and double-walled;
 - (b) piping layout and design;
 - (c) pipe trenches, backfilling, compaction, and paving;
 - (d) pipefitting, including curing times for fiberglass adhesives, compatibility of product with pipe dope, minimizing fittings, tightness, and pipe support;
 - (e) swing joints and flexible connectors;
 - (f) emergency shutoff valves;
 - (g) tank fittings and bushings;
 - (h) vent capacity, location, arrangement, and height; and
 - (i) visual inspections;

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Proposed Rules

- (3) material compatibility;
- (4) manifolded tanks; and
- (5) vapor recovery systems;

F. electrical installation:

- (1) regulatory review, including:
 - (a) NFPA's National Fire Code (ANSI/NFPA Article 79); and
 - (b) API's Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems (API Recommended Practice 1632);
- (2) NFPA Class I liquids, Divisions I and II, requirements and restrictions;
- (3) definitions, including explosion proof apparatus and intrinsically safe equipment and wiring;
- (4) general installation considerations, including trenching, cover, grounding, backfill, seals, bushings, supports, and stray currents;
- (5) circuit disconnects;
- (6) accessibility of circuit breakers for monitoring devices and impressed cathodic protection systems by unauthorized personnel; and
- (7) as-built drawings;

G. ancillary equipment placement and installation:

- (1) fuel dispensing systems;
- (2) emergency power cutoffs;
- (3) suction and remote pumping systems;
- (4) fill-pipe and spill catchment basin;
- (5) tank fittings;
- (6) observation and monitoring wells, including a discussion of Minnesota Department of Health's Water Well Construction Code in chapter 4725;
- (7) interstitial tank and piping monitors; and
- (8) identification of wells, manholes, and fill pipes;

H. tank system testing:

- (1) methods and appropriate uses:
 - (a) a detailed discussion of how to conduct a proper "soap" or air test;
 - (b) hydrostatic pressure, tightness, or precision tests;
 - (c) spark testing for holidays on composite steel tanks;
 - (d) testing of new cathodic protection systems for continuity and isolation;
 - (e) vapor testing during tank closure;
 - (f) testing impervious liners according to the manufacturers' instructions; and
 - (g) testing of other associated equipment for proper installation and operation;
- (2) testing considerations:
 - (a) new versus existing tanks or piping;
 - (b) single-wall versus double-wall tanks or piping;
 - (c) manufacturers' instructions;
 - (d) safeguards;
 - (e) tank deflection; and
 - (f) variables specific to certain tests, such as pressure, temperature, and vapor traps; and
- (3) documentation and record keeping requirements;

I. release detection:**(1) leak detection:**

- (a) interstitial monitoring;
- (b) observation wells located in the excavation zone and collection sumps of secondary containment systems;
- (c) automatic tank gauging;
- (d) vapor monitoring;
- (e) groundwater monitoring;
- (f) inventory control; and
- (g) line pressure monitoring;

(2) spill and overfill prevention:

- (a) catchment basins;
- (b) automatic shutoff devices; and
- (c) ball float valves; and

(3) identification and security considerations for monitoring systems;**J. corrosion protection:**

(1) requirements for external corrosion protection in Code of Federal Regulations, title 40, part 280, subparts A to G, and state technical tank rules adopted under *Minnesota Statutes*, section 116.49, subdivision 1, when adopted;

(2) a discussion of API's Cathodic Protection of Underground Storage Tanks and Piping Systems (API Recommended Practice 1632);

(3) coatings for external corrosion protection:

- (a) desirable characteristics;
- (b) handling, inspection, and installation; and
- (c) minor, on-site repairs according to the manufacturers' instructions;

(4) cathodic protection:

- (a) sacrificial anode versus impressed current;
- (b) isolation of tank and piping;
- (c) rule of thumb and mathematical determination of adequate corrosion protection;
- (d) periodic inspections and testing;
- (e) considerations when choosing a cathodic protection system;
- (f) stray current corrosion;
- (g) proper installation of a cathodic protection system, including an in-depth discussion of the installation of the factory-installed cathodic protection systems; and
- (h) installation and use of test cells and monitoring ports;

K. tank closure and removal:**(1) regulatory discussion:**

(a) requirements for external corrosion protection in EPA's Underground Storage Tanks - Technical Requirements at Code of Federal Regulations, title 40, part 280, subparts A to G;

(b) API's Removal and Disposal of Used Underground Petroleum Storage Tanks (API Recommended Practice 1604);

(c) API's Cleaning Petroleum Storage Tanks (API Recommended Practice 2015);

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Proposed Rules

- (d) NFPA's Cleaning Small Tanks and Containers (NFPA Standard 327);
- (e) requirements for tank closure in NFPA's Uniform Fire Code, Article 79; and
- (f) state technical tank rules adopted under *Minnesota Statutes*, section 116.49, subdivision 1, when adopted;
- (2) temporary and permanent closure requirements;
- (3) tank cleaning methods:
 - (a) purging procedures, pros and cons:
 - i. inert gas: carbon dioxide (CO₂) or nitrogen (N₂);
 - ii. solid carbon dioxide (dry ice);
 - iii. compressed air;
 - iv. diffused air;
 - v. water; and
 - vi. steam;
 - (b) compatibility of method with product;
 - (c) safety procedures and equipment; and
 - (d) proper disposal of residues and sludge;
- (4) testing for flammable and combustible vapors and oxygen content;
- (5) closure in place, filling with inert substances such as sand, concrete slurries, or polyurethane-type foams;
- (6) tank removal;
- (7) site assessment requirements:
 - (a) sampling equipment and methods;
 - (b) reporting requirements; and
 - (c) records; and
- (8) disposal of tanks;
- L. role of other consultants, including corrosion experts, environmental contamination consultants, and engineers;
- M. contract specifications and discussion of key elements that are included in contract specifications;
- N. demonstrations and hands-on training that gives actual experience performing tasks associated with tank projects:
 - (1) soap testing and leak detection procedures;
 - (2) cathodic protection demonstrations;
 - (3) tank and piping installation procedures; and
 - (4) safety considerations for installation, repair, and removal;
- O. record keeping:
 - (1) records required by state and federal regulations in item A;
 - (2) records recommended for legal and insurance purposes; and
 - (3) use of photographs for installation and removal records;
- P. supervisory techniques for tank activities to enforce and reinforce the required work practices and discourage unsafe work practices;
- Q. a discussion of the possible environmental consequences resulting from improper installation, repair, and closure of underground storage tank systems;
- R. course review covering the key aspects of the training course; and
- S. other subjects that the commissioner determines should be taught to reflect advances in tank installation, repair, and removal methods or safety practices.

7105.0090 EXAMINATIONS AND DIPLOMAS.

Subpart 1. **Administration of examinations.** Examinations must be conducted by the agency, or by personnel of colleges or educational institutes selected and designated by the agency.

Subp. 2. **Examination specifications.** The final examination administered under this chapter must be a written, comprehensive examination consisting of 100 multiple choice questions, covering the topics discussed in the training course.

Subp. 3. **Examination requirements.** A person seeking certification as a certified supervisor shall participate in all course requirements and pass a written final examination. An applicant shall score 75 percent or higher to pass the final examination. The final examination must be passed within ten days after completing the training course.

Subp. 4. **Retest.** If a person fails to pass the final examination, one retest may be taken. If a person fails to pass the retest, the full course must be attended again before further testing.

Subp. 5. **Diplomas.** The training provider shall issue a numbered diploma to each student who completes the training course and successfully passes the examination. The following information must be included on the diploma:

- A. the name of the student;
- B. the name of the course completed;
- C. the dates of the course and the examination;
- D. a statement indicating that the student attended the course and passed the examination;
- E. an expiration date for accreditation that is two years after the date on which the student passed the examination; and
- F. a diploma number.

If the person administering the examination is not the same person administering the course, both persons shall sign the diploma.

7105.0100 APPROVAL OF TRAINING COURSE.

Subpart 1. **Application procedures for training course approval.** The commissioner may approve training courses developed by persons other than the agency staff. The commissioner shall approve a course that meets the requirements of this part and parts 7105.0080 and 7105.0090. To apply for agency approval of a tank installer training course, the following information must be submitted to the commissioner:

- A. the course sponsor's name, address, and phone number;
- B. a list of states that currently approve the training course;
- C. the course curriculum;
- D. a letter from the training course sponsor that clearly indicates how the course meets parts 7105.0080 and 7105.0090, including:
 - (1) length of training in days;
 - (2) amount and type of hands-on training;
 - (3) examination, including length, format, and passing score; and
 - (4) topics covered in the course;
- E. a copy of all course materials, such as student manuals, instructor notebooks, and handouts;
- F. a detailed statement about development of the examination used in the course;
- G. the names and qualifications of course instructors, as outlined in subpart 2; and
- H. a description and an example of numbered diplomas issued to students who attend the course and pass the examination.

Subp. 2. **Experience requirements for instructors.** To be considered qualified, course instructors shall meet the following requirements:

- A. field experience in storage tank installation, repair, and removal equal to a total of at least 4,000 hours, which may be met by just one instructor, or through a combination of experience held by a number of instructors; and
- B. after meeting the requirement in item A, any additional instructors shall have directly related experience or academic credentials in a related field.

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Proposed Rules

Subp. 3. **Suspension or revocation of course approval.** The agency shall suspend or revoke approval of a training course if the commissioner finds that the course is not providing training that meets the requirements of this chapter.

Subp. 4. **Renewal of course approval.** Except as provided in subpart 3, approval of a training course shall remain in effect until the agency notifies approved trainers that changes in the course are required. At that time, the training providers shall submit the revised course to the agency for approval.

7105.0110 SANCTIONS.

Subpart 1. **Criteria.** The commissioner may refuse to issue, renew, or reinstate a certificate or suspend or revoke a certificate for any of the following reasons:

A. submission of false or misleading information or credentials to obtain or renew a certificate;

B. failure to meet the requirements to obtain or renew a certificate in this chapter;

C. failure to meet the technical requirements of Code of Federal Regulations, title 40, part 280, or its counterpart in *Minnesota Rules* when adopted, the requirements of this chapter including the Standards of Performance in part 7105.0070, or other law relating to storage tank projects; or

D. negligence in the performance of storage tank projects.

Subp. 2. **Investigation.** The commissioner may initiate an investigation upon receiving a signed written complaint alleging the existence of grounds for sanctions against a certified person or an applicant for certification, or whenever the commissioner has reason to believe that sanctions may be warranted.

Subp. 3. **Procedures.** Prior to revoking or suspending a certificate and subsequent to a refusal to issue, reissue, or reinstate a certificate, the person against whom the sanction is being imposed shall be given notice of the sanction, and the reasons for it, and the person shall have ten days from the date of receiving the notice to request that a contested case hearing be held on the matter. The commissioner shall not revoke or suspend a certificate until the contested case hearing has been completed or until the request for a hearing has been considered at an agency meeting and denied. If no request for a contested case hearing is received by the commissioner within the ten days, the sanction set forth in the notice shall go into effect, in the case of a certificate suspension or revocation, or shall become final, in the case of a refusal to issue, reissue, or reinstate a certificate.

Subp. 4. **Contested case requests.** Upon receipt of a contested case hearing request, the commissioner shall either grant the request and schedule a hearing or put the matter on the agenda for consideration at an agency meeting under part 7000.0500, subpart 6. If the matter is considered at an agency meeting, the provisions of part 7000.1000, subpart 3, shall govern whether a hearing request is granted. Contested case hearings under this part must comply with the contested case provisions of chapter 7000 and *Minnesota Statutes*, chapter 14.

Subp. 5. **Return of certificate.** Upon revocation or suspension, certified persons shall return to the agency their original certificate and current renewal certificates.

Subp. 6. **Recertification.** A person whose certificate has been revoked shall not be entitled to apply for recertification until at least one year following the effective date of revocation or for any longer period of time specified in the revocation order.

Subp. 7. **Reinstatement after suspension.** The commissioner shall reinstate a suspended certificate if the person whose certificate has been suspended fulfills the terms of the suspension order and meets all applicable requirements of the rules for obtaining a certificate.

7105.0120 FEES.

Subpart 1. **Certification fee.** The fee for each new, modified, or renewal application for contractor or supervisor certification is \$50.

Subp. 2. **Refund of fees.** The agency commissioner shall only return fees received from individuals who are rejected for certification.

7105.0130 INCORPORATION BY REFERENCE.

Subpart 1. **Scope.** For purposes of this chapter, the documents in subparts 2 to 4 are incorporated by reference. They can be found at the Minnesota Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155. They are subject to frequent change. If any of the documents in subparts 2 to 4 are amended, and if the amendments are incorporated by reference or otherwise made a part of state or federal law applicable to the installation, repair, or closure of storage tank systems, then the amendments to the documents are also incorporated by reference into this chapter.

Subp. 2. **API documents.** The following documents are also available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005:

A. American Petroleum Institute, Removal and Disposal of Used Underground Petroleum Storage Tanks, API/RP 1604 (December 1987);

B. American Petroleum Institute, Installation of Underground Petroleum Storage Systems, API/RP 1615 (November 1987);

C. American Petroleum Institute, Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems, API/RP 1632 (December 1987); and

D. American Petroleum Institute, Cleaning Petroleum Storage Tanks, API/RP 2015 (September 1985).

Subp. 3. **NFPA documents.** The following documents are also available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269:

A. National Fire Protection Association, Flammable and Combustible Liquids Code, NFPA 30 (August 7, 1987);

B. National Fire Protection Association, Automotive and Marine Service Station Code, NFPA 30A (June 10, 1987);

C. National Fire Protection Association, Cleaning Small Tanks and Containers, NFPA 327 (1982); and

D. National Fire Protection Association, Uniform Fire Code, NFPA Article 79 (1988).

Subp. 4. **PEI document.** The following document is also available from the Petroleum Equipment Institute, P.O. Box 2380, Tulsa, Oklahoma 74101: Petroleum Equipment Institute, Recommended Practices for the Installation of Liquid Storage Systems, PEI/RP 100 (1987).

Board of Water and Soil Resources

Proposed Permanent Rules Relating to Reinvest in Minnesota Conservation Reserve Program

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Board of Water and Soil Resources intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statute* Chapter 40.45.

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

Any person may make a written request for a public hearing on the rule 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 addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

Wayne Edgerton, RIM Coordinator
Board of Water and Soil Resources
155 S. Wabasha, Suite 104
St. Paul, Minnesota 55107
(612) 296-0880

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

A copy of the proposed rule 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 and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Wayne Edgerton, RIM Coordinator, Board of Water and Soil Resources, 155 S. Wabasha, Suite 104, St. Paul, Minnesota 55107, (612) 296-0880, upon request.

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The Statement of Need and Reasonableness also indicates that since this is a voluntary program that this rule will not have a negative impact on small business.

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

Dated: 24 August 1989

James R. Birkholz
Executive Director

Rules as Proposed

8400.3000 AUTHORITY.

Minnesota Statutes, sections 40.40 to 40.45 40.46 and 84.95, authorize the ~~commissioner board~~, in cooperation with ~~the state board~~, districts, state and local private groups, and state and federal agencies, to implement a program of retiring certain agricultural land from crop production and establishing on that land permanent vegetative cover, restoring ~~altered drained~~ wetlands, ~~or~~ establishing windbreaks adjacent to highways, or enhancing and protecting other private lands. Parts 8400.3000 to 8400.3930 provide procedures and criteria to be followed by the ~~commissioner, state board~~, and district boards in implementing *Minnesota Statutes*, sections 40.40 to 40.45 40.46.

8400.3030 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. [See Repealer.]

Subp. 4. to 6. [Unchanged.]

Subp. 6a. Authorized farm partnership. "Authorized farm partnership" has the meaning given in Minnesota Statutes, section 500.24, subdivision 2.

Subp. 7. [See Repealer.]

Subp. 8. Commissioner Board. "Commissioner" means the commissioner of agriculture. "Board" means the Board of Water and Soil Resources.

Subp. 9. Conservation agreement. "Conservation agreement" means a written contract stating the terms and conditions for conveying the conservation plan and the conservation easement by the landowner to the commissioner board.

Subp. 10. to 17. [Unchanged.]

Subp. 17a. Drained wetland. "Drained wetland" means a former natural wetland that has been altered by draining, dredging, filling, leveling, or other manipulation sufficient to render the land suitable for agricultural crop production. The alteration must have occurred before December 23, 1985, and must be a legal alteration as determined by the commissioner of natural resources.

Subp. 18. to 20. [Unchanged.]

Subp. 20a. Family farm partnership. "Family farm partnership" has the meaning given in Minnesota Statutes, section 500.24, subdivision 2.

Subp. 21. to 30. [Unchanged.]

Subp. 31. Landowner. "Landowner" means an individual, family farm, family farm partnership, authorized farm partnership, family farm corporation, or authorized farm corporation, estate, or testamentary trust, who either owns eligible land or is purchasing eligible land under a contract for deed in Minnesota.

Subp. 32. [Unchanged.]

Subp. 33. Marginal agricultural land. "Marginal agricultural land" for the RIM reserve program means land with cropland soils that are inherently unproductive for agricultural crop production or subject to significant potential soil productivity loss from erosion. For the beginning farmer program, "marginal agricultural land" means land in the land capability classes VI to VIII, as defined by the United States Department of Agriculture, Agricultural Handbook Number 210. This publication is available at the state law library and at district offices, is not subject to frequent change, and is incorporated by reference. The state board shall provide districts with a list of soil mapping units indicative of marginal agricultural land. Districts may change the list as necessary to reflect local soil characteristics. Changes must be approved by the commissioner and the state board. This list, with changes, is available at the state law library and at district offices, is subject to frequent change, and is incorporated by reference.

Subp. 33a. Pasture. “Pasture” means land used for grazing by domestic livestock on and before June 2, 1989, which has not been cultivated or interseeded at least twice during the period of 1976 to 1985, and therefore is not considered to be in agricultural crop production.

Subp. 33b. Pastured hillside. “Pastured hillside” means land used for pasture in land capability classes III to VIII as defined by the United States Department of Agriculture, Agricultural Handbook Number 210. This publication is available at the state law library and at district offices, is not subject to frequent change, and is incorporated by reference.

Subp. 34. to 36. [Unchanged.]

Subp. 37. Present value. “Present value” means the value today of an amount that would have been received later, at a discount rate established annually by the ~~commissioner~~ board.

Subp. 38. to 39. [Unchanged.]

Subp. 39a. Public water. “Public water” means waters and wetlands as defined in Minnesota Statutes, section 105.37 and inventoried under Minnesota Statutes, section 105.391. A copy of the inventory is available in the district office.

Subp. 40. Restored wetland. “Restored wetland” means ~~an altered~~ a drained wetland restored under the RIM reserve program if the wetland meets the definition of a wetland in subpart 48.

Subp. 41. RIM reserve conservation practice specifications. “RIM reserve conservation practice specifications” means the current edition of the ~~Minnesota Department of Agriculture board’s~~ publication containing detailed descriptions of the approved conservation practices found in part 8400.3660. This publication is subject to frequent change, is available at the state law library and at district offices, and is incorporated by reference.

Subp. 42. RIM reserve program. “RIM reserve program” means the Reinvest in Minnesota Resources Conservation Reserve program established in *Minnesota Statutes*, sections 40.41 to ~~40.45~~ 40.46.

Subp. 42a. Riparian. “Riparian” means cropland adjacent to public water. For the RIM reserve program, the cropland must begin within 100 feet of the boundary of the public water to be eligible.

Subp. 43. [Unchanged.]

Subp. 43a. Sensitive groundwater area. “Sensitive groundwater area” means a geographic area defined by natural features where there is a significant risk of groundwater degradation from activities conducted at or near the land surface. These areas may be identified by mapping or other appropriate methods determined by the commissioner of natural resources and the board. Wellhead protection areas may be designated as a sensitive groundwater area.

Subp. 44. to 46. [Unchanged.]

Subp. 47. [See Repealer.]

Subp. 48. [Unchanged.]

8400.3060 CRITERIA FOR ALLOCATION OF FUNDS.

The ~~commissioner~~ board shall allocate funds to participating district boards ~~through the state board~~ based on the following criteria:

A. and B. [Unchanged.]

C. the potential for restoring drained wetlands;

D. to F. [Unchanged.]

The allotted funds may be increased, decreased, or shifted by the board as necessary to maximize the use of funds among districts.

8400.3100 ADMINISTRATION OF FUNDS.

The participating district board is responsible for administration of the funds in accordance with *Minnesota Statutes*, sections 40.40 to ~~40.45~~ 40.46 and other applicable laws. The district board may make recommendations concerning use of these funds in accordance with parts 8400.3000 to 8400.3930.

8400.3110 EASEMENT DURATION.

The board may acquire conservation easements on eligible land. An easement may be permanent or of limited duration. An easement

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acquired on drained wetlands or land for highway windbreak purposes must be of permanent duration. An easement of limited duration may not be acquired if it is for a period less than 20 years.

8400.3130 PRIORITY SETTING.

Annually, before considering any applications from landowners, the participating district board shall call a screening committee meeting. The screening committee must establish priority areas within the district. Establishment of priority areas must be based on the following criteria:

A. the priorities established by the board;

~~B.~~ C. the location of high priority soil erosion or water quality problem areas in the district as outlined in the district comprehensive and annual plans;

~~C.~~ D. the potential of the land for fish and wildlife production, reducing soil erosion, and protecting water quality;

~~D.~~ E. recommendations from technical agricultural and natural resource experts familiar with the district;

~~E.~~ F. the established priorities of the agencies and organizations represented on the screening committee;

~~F.~~ G. maximizing the benefits of current programs administered by the United States Agricultural Stabilization and Conservation Service, United States Fish and Wildlife Service, and Minnesota Department of Natural Resources; and

~~G.~~ H. the amount of RIM reserve program funds available.

8400.3160 CRITERIA FOR ELIGIBLE LAND.

Land eligible for the RIM reserve program must meet at least one of the following criteria:

A. and B. [Unchanged.]

~~C.~~ C. The land is ~~an altered drained~~ restored wetland and cropland adjacent to the ~~altered drained~~ restored wetland, with up to four acres of adjacent cropland for each acre of ~~restored~~ restored wetland. In selecting drained wetlands for enrollment, the highest priority must be given to wetlands with a cropping history during the period 1976 to 1985.

D. [Unchanged.]

E. The land is cropland in a sensitive groundwater area.

F. The land is cropland riparian to public waters.

G. The land is a woodlot on agricultural land.

H. The land is an abandoned building site on agricultural land.

I. The land is a pastured hillside.

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

(1) ~~a crop history~~ The land has been in agricultural crop production for at least two years during the period 1981 to 1985, ~~except drained wetlands, woodlots, abandoned building sites, or hillsides used for pasture.~~

(2) ~~was~~ The land has been owned by the landowner on January 1, 1985, or ~~was~~ owned by the landowner, or a parent or other blood relative of the landowner, for at least ~~three years~~ one year before the date of application;

(3) ~~is~~ The land must be at least five acres in size, except for a highway windbreak, woodlot, abandoned building site, or ~~is~~ must be a whole field as defined by the Agricultural Stabilization and Conservation Service;

(4) ~~is~~ The land must not be within 200 feet of any building.

(5) ~~The land must not be~~ The land must not be set-aside, enrolled, or diverted under another federal or state government crop land retirement program including, but not limited to, federal conservation reserve, federal production adjustment set-aside, or state or federal water bank; ~~and.~~

~~(5) is~~ (6) The land must be physically possible to crop, except for ~~altered drained wetlands, woodlots, abandoned building sites, and hillsides used for pasture.~~

8400.3200 MAXIMUM ENROLLMENT.

The total ~~enrolled land of~~ for which a landowner in may receive compensation from the RIM reserve program may not exceed 20 percent of the ~~landowner's total agricultural land acreage in Minnesota, if the landowner owns at least 200 acres of agricultural land. If a landowner owns less than 200 acres of agricultural land, the amount that may be enrolled in the conservation reserve is:~~

~~A. all agricultural land owned, if 20 acres or less; or~~

~~B. if the total agricultural land owned is more than 20 acres but less than 200 acres, 20 acres plus ten percent of the total~~

average farm size in the county where the land is being enrolled according to the average size determined by the most recent United States Department of Agriculture Census of Agriculture.

The total enrolled land of a landowner in the beginning farmer program may not exceed 20 percent of the total agricultural acreage of the enrolled farm operation.

8400.3230 APPLICATION BY LANDOWNERS.

Landowners interested in participating in the RIM reserve program must submit an application to the appropriate district office in which the land is located, during the application period established by the ~~commissioner~~ board, and on forms provided by the ~~commissioner~~ board. The landowner must complete the application in its entirety along with any supportive information required for proper consideration of the application. The supportive information includes, but is not limited to:

- A. crop history of the parcel;
- B. ~~total agricultural acres owned by the applicant in Minnesota;~~
- ~~C.~~ aerial photographs or a sketch of the parcel; and
- ~~D.~~ C. description of other land owned or leased as part of the same farm operation at the time of application.

The district technician shall make an initial determination of easement eligibility at the time of application. Applications having questionable eligibility must be referred to the district board for eligibility determination. Providing proof of eligibility is the responsibility of the landowner. The district technician shall develop a cost estimate for the easement and approved practices for all eligible applications. Other organizations and agencies may be requested to provide technical assistance in preparing cost estimates.

8400.3400 CONSERVATION AGREEMENT FOR EASEMENT.

The district board shall develop a conservation agreement for all approved applications in which the landowner agrees to:

- A. [Unchanged.]
- B. establish and maintain permanent cover and other conservation practices on the land subject to the easement as described in the conservation plan approved by the ~~commissioner~~ board, which is incorporated into the conservation easement;
- C. convey to the state a permanent wetland restoration easement when ~~an altered a~~ a drained wetland is being restored;
- D. not convert to agricultural crop production, pasture, or introduced pasture any other land supporting natural vegetation owned or leased as part of the same farm operation at the time of application, if those lands support natural vegetation or have not been used in agricultural crop production, pasture, or introduced pasture except that land may be converted to pasture if done according to an approved district conservation plan;
- E. the enforcement of the terms of the easement and agreements ~~by an action for specific performance, a mandatory injunction, or for damages in an amount not to exceed the total amount paid by the state to the landowner, with interest from the date of each default under the agreement or any combination of these remedies as provided in Minnesota Statutes, section 40.43, subdivision 9, 8 or other relief authorized by law;~~
- F. not alter wildlife habitat, natural features, or the vegetative cover and other conservation practices established in the conservation plan, except by the prior written approval of the ~~commissioner~~ board;
- G. not produce agricultural crops, unless approved by the ~~commissioner~~ board for wildlife management purposes;
- H. not graze livestock, ~~except easements secured from the 1986, 1987, and 1988 application periods, may be grazed~~ with the prior written approval of the ~~commissioner~~ board, after consultation with the commissioner of the Department of Natural Resources, in the case of severe drought or a local emergency;
- I. and J. [Unchanged.]
- K. notify the ~~commissioner~~ board in writing at least within 30 days ~~before~~ after the conveyance of all or part of the title or interest in the land in which the easement area is located by providing the names and addresses of the grantees, assignees, or heirs;
- L. to N. [Unchanged.]
- O. allow the ~~commissioner~~ board and the ~~commissioner's~~ board's employees and agents to enter the easement area for the purposes of inspection or enforcement of the terms and conditions of the easement; and

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P. [Unchanged.]

The conservation agreement must be recordable and on forms approved by the ~~commissioner~~ board.

8400.3430 PROCEDURE FOR REVIEW OF CONSERVATION AGREEMENT.

After the conservation agreement has been developed by the district board, the unsigned agreement must be processed as follows:

A. It must be reviewed by a field representative of the state board.

B. It must have a review and determination by the ~~commissioner~~ board.

C. The landowner must be notified of the ~~commissioner's~~ board's decision.

D. If it is approved by the ~~commissioner~~ board, the agreement must be given to the landowner for signature.

E. The agreement must be returned to the ~~commissioner~~ board for signature by the necessary state officials and encumbrance of state funds.

F. A copy of the signed agreement must be provided to the landowner.

8400.3460 ABSTRACT AND TITLE REQUIREMENTS.

After notification of the ~~commissioner's~~ board's signing of the conservation agreement, the landowner, at the landowner's expense, shall deliver to the district office an original up-to-date abstract of title or registered property abstract, with certifications as to liens, bankruptcies, real estate taxes, and judgments. The landowner must have good and marketable title, not subject to any prior liens or encumbrances, as determined by the Attorney General, or an insurable title under a title insurance policy, not subject to any prior liens or encumbrances, approved by the Attorney General. Any title defect, liens, or encumbrances must be promptly removed or corrected by the landowner including, but not limited to, the following: lien waivers, releases or consent and subrogation from mortgagees, release or satisfaction of judgments, and receipt for payment of delinquent real estate taxes. The landowner's abstract of title must be returned to the landowner.

8400.3500 EASEMENT CONVEYANCE.

Upon delivery and recording of a properly executed conservation easement, approved by the ~~commissioner~~ board, and the vesting of the easement interest in the ~~commissioner~~ board, not subject to any prior lien or encumbrances, payment must be made for the easement to the landowner, landowner's designees, assignees, or heirs.

8400.3530 PAYMENT RATES.

Subpart 1. [Unchanged.]

Subp. 2. **New easements.** For permanent easements, payments are per acre figures derived from county average cash rent adjusted for countywide variations in estimated township market value. The figures are established on a township basis with the lower of the following two values selected as the payment:

A. 100 percent of the present value of the derived per acre figure calculated for perpetuity; or

B. 90 percent of estimated township market value. This payment method provides higher values for better quality land and ensures that payments do not exceed estimated market values. A schedule of payments for townships and unorganized areas is developed annually and is available at district offices or from the ~~commissioner~~ board.

For limited duration easements not less than 20 years in length, payments are based on 65 percent of the permanent easement payment.

Payment rates for eligible lands without a cropping history must be based on a percentage of the permanent easement payment rate as determined by the board annually. There must be no compensation for the value of any buildings or other structures that may be on the easement area.

Payment rates may be modified prior to the sign up by the ~~commissioner~~ board if the ~~commissioner~~ board determines the rates established above do not reflect current market values based on the most recent land value market indicators.

The ~~commissioner~~ board shall annually establish the discount rate to be used for calculating present value. Average cash rent and estimated market value are based on information provided by the Department of Revenue in cooperation with local assessors.

Subp. 3. and 4. [Unchanged.]

8400.3600 EASEMENT RENEWAL AND CONVERSION.

A. When a conservation easement of limited duration expires, a new conservation easement and agreement for an additional period of not less than 20 years may be acquired by agreement of the ~~commissioner~~ board and the landowner under the rules in force at that time. The ~~commissioner~~ board may adjust payment rates as a result of renewing an agreement and conservation easement only after examining the condition of the established cover, conservation practices, and land values.

B. The easement duration may be lengthened through mutual agreement with the board in consultation with the commissioners of the Departments of agriculture and natural resources if they determine that the changes effectuate the purpose of the program or to facilitate its administration.

8400.3610 ALTERATION, RELEASE, OR TERMINATION OF EASEMENTS.

The board may alter, release, or terminate an easement after consultation with the commissioners of agriculture and natural resources. The board may alter, release, or terminate an easement only if the board determines the public interests and general welfare are better served by the alteration, release, or termination.

The board must be provided the following information at least 30 days prior to a board meeting, before the board will consider a request to alter, release, or terminate an easement:

A. a letter from the landowner justifying the change and identifying how the public interest and general welfare will be better served;

B. a letter from the district board recommending the change;

C. a letter from the Department of Natural Resources wildlife manager recommending the change; and

D. other supporting documents, including:

1. an aerial photo identifying the requested change;

2. a soil survey map of the area;

3. cropping history information; and

4. other pertinent documentation that will support the request.

The board reserves the right to require special provisions to ensure at least equal resource value as a condition of approving the request. The board must be compensated for all damages and loss of benefits to the conservation easement as well as administrative expenses and costs incurred in the alteration, release, or termination of an easement. Priority must be given to obtaining eligible replacement land rather than cash payment for damage or loss of benefits.

8400.3630 CRITERIA FOR APPROVED PRACTICES.

Approved practices must be enduring in nature and have as their primary purpose the control of soil erosion or sedimentation, protection or improvement of water quality, or creation or improvement of fish and wildlife habitat. The list is contained in part 8400.3660 and is further specified in the RIM reserve conservation practice specifications. Practices under this program must be designed for a minimum effective life of 20 years, be nonproduction practices, and have specifications providing for the use of plant species and construction techniques that provide quality fish and wildlife benefits. Production practices that do not qualify as approved practices include, but are not limited to, Christmas tree plantations and fruit orchards. Food plots are not eligible for RIM reserve cost-sharing, but are allowed on enrolled acres if they are included in the conservation plan and approved by the ~~commissioner~~ board in cooperation with the commissioner of natural resources.

8400.3700 ESTABLISHMENT OF APPROVED PRACTICES.

Subpart 1. [Unchanged.]

Subp. 2. **Costs for approved practices.**

A. The district board shall review the receipts and invoices provided by the landowner to determine the actual cost eligible for RIM reserve payment. If the district board determines that the claims are reasonable and ~~practical~~ necessary, it shall recommend payment to the landowner by submitting a completed certification of practice completion and a cost-share voucher to the ~~commissioner~~ board. If the district board determines that certain claims are not justified or not eligible, it shall notify the landowner in writing of the unjustified claim within 30 days. The landowner may request reconsideration of this determination by the district board within 15 days of receipt of the determination. If additional eligible costs are justified, the district board shall then recommend payment for the approved amount. The board reserves the right to determine whether claims for payment are reasonable and necessary.

B. and C. [Unchanged.]

D. The ~~commissioner~~ board may encumber additional funds for eligible costs if the additional encumbrance is consistent with

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the purpose and policy of the RIM reserve program and the maximum amounts in *Minnesota Statutes*, section 40.43, subdivision 6, clauses 1 and 2 (1) and (2), are not exceeded.

Subp. 3. and 4. [Unchanged.]

8400.3730 FAILURE OF APPROVED PRACTICES.

A landowner is not in violation of the conservation easement if the failure of approved practices was caused by reasons beyond the landowner's control such as extreme weather conditions. In these instances, the district board may recommend to the ~~commissioner~~ board that additional RIM reserve funds be encumbered for reinstallation of the approved practices. The encumbrance must comply with the limits in *Minnesota Statutes*, section 40.43, subdivision 6, clauses (1) and (2), and cannot exceed the amount encumbered for the initial installation. In no case may a district board provide financial assistance to a landowner for the reapplication of approved practices that were removed, altered, or failed due to improper maintenance during the term of the easement.

8400.3830 VIOLATIONS.

The ~~commissioner~~ board may enforce the easement and agreement by the ~~following~~ legal action: in items A and B.

A. ~~specific performance; A landowner who violates the terms of a conservation easement or agreement under this chapter, or induces, assists, or allows another to do so, is liable to the state for treble damages if the trespass is willful, but liable for double damages only if the trespass is not willful. The amount of damages is the amount needed to make the state whole or the amount the landowner has gained due to the violation, whichever is greater.~~

B. ~~mandatory injunction; Upon the request of the board, the attorney general may commence an action for specific performances, injunctive relief, damages, including attorney fees, and any other appropriate relief to enforce Minnesota Statutes, sections 40.41 to 40.46 in district court in the county where all or part of the violation is alleged to have been committed, or where the landowner resides or has a principal place of business.~~

C. ~~damages in an amount not to exceed the total amount paid by the state to the landowner from RIM reserve funds, with interest from the date of each default; or~~

~~D. any combination of the above remedies.~~

The district board may recommend to the ~~commissioner~~ board appropriate measures to be taken to correct violations. Easements remain in effect even if maintenance violations have occurred.

8400.3860 MONITORING.

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

8400.3900 DISTRICT BOARD RECORDS.

The district shall maintain a current ledger of easements on forms provided by the ~~commissioner~~ board. The ledger must specify the names of the landowners with whom the easements have been developed, the approved practices involved, the status of permanent cover establishment, the total of funds encumbered and expended, the size and type of easements, and their effective date.

8400.3930 RECONSIDERATION AND REVIEW.

Subpart 1. to 3. [Unchanged.]

Subp. 4. [See Repealer.]

REPEALER. *Minnesota Rules*, parts 8400.3030, subparts 3, 7, and 47; 8400.3760; and 8400.3930, subpart 4; 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.

Board of Pharmacy

Adopted Permanent Rules Relating to Dispensing and Distribution of Legend Medical Gases; Distribution of Veterinary Drugs and Devices

The rules proposed and published at *State Register*, Volume 13, Number 35, pages 2080-2082, February 27, 1989 (13 S.R. 2080) are adopted with the following modifications:

Rules as Adopted

DISTRIBUTION OF VETERINARY DRUGS AND DEVICES

6800.9930 DISTRIBUTION OF VETERINARY DRUGS AND DEVICES.

Parts 6800.9930 to 6800.9932 apply to the retail sale and distribution of veterinary drugs and devices.

6800.9931 REGISTRATION.

Subpart 1. **Annual registration required.** Every person or establishment selling or distributing veterinary drugs and devices in Minnesota at retail that is not currently licensed as a pharmacy, pharmacist, or practitioner as defined in *Minnesota Statutes*, section 151.01, shall annually apply for registration by the board. Employees of an establishment need not register if the establishment is registered or has applied for registration.

Subp. 2. **Issuance.** Upon the filing of an application for registration and upon the payment of a fee of \$50, the board shall issue a registration certificate in a form it prescribes.

Subp. 3. **Renewals.** The certificate expires on December 1 of each year, and shall be renewed annually. Renewal applications received after December 1 are subject to a late filing fee of \$25 in addition to the renewal fee.

Subp. 4. **Separate registration required.** A separate registration is required for each location and is not transferable. The certificate shall be displayed at the location for which it was issued. A change in the location of the registered facility will require reregistration.

6800.9932 PACKAGING.

A veterinary drug retailer shall deliver veterinary drugs to a client or a client's agent only in the original manufacturer's package.

Pollution Control Agency

Adopted Permanent Rules Relating to Used Oil Processing Equipment Loan Program

The rules proposed and published at *State Register*, Volume 13, Number 37, pages 2198-2201, March 13, 1989 (13 S.R. 2198) are adopted as proposed.

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

Proposed Emergency Rules

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

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

Adopted Emergency Rules

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

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

Continued/Extended Emergency Rules

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

Department of Veterans Affairs

Minnesota Veterans Homes Board

Proposed Emergency Rules Relating to Veterans Homes Admissions, Discharges, Cost of Care Calculations, and Maintenance Charges

Notice of Intent to Adopt an Emergency Rule

NOTICE IS HEREBY GIVEN that the Minnesota Veterans Homes Board (Board) intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in *Minnesota Statutes*, section 198.003 (1988), as amended by *Laws of Minnesota, 1989*, Chapter 84. The Board, in adopting the rule, is following the procedures set forth in the Administrative Procedures Act for adopting emergency rules, *Minnesota Statutes*, section 14.29 to 14.36 (1988).

All persons have 25 days after publication, or until 4:30 p.m. on Friday, October 6, 1989, to submit data and views, in writing, on the proposed emergency rule or any part or subpart of the rule. Any comments must be submitted to:

Richard Zierdt, Executive Director
Minnesota Veterans Homes Board
Veterans Service Building, Second Floor
St. Paul, Minnesota 55155
(612) 296-2073

A copy of the proposed rule is published in the *State Register*.

A free copy of the proposed emergency rules is available by contacting Richard Zierdt at the address and telephone number stated above.

The proposed emergency rules 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 emergency rules as noticed.

Upon adoption of the emergency rules by the Board, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission of this material 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 a written request to Richard Zierdt at the address stated above.

The emergency rules will take effect five working days after approval by the Attorney General and be effective until December 31, 1989. The emergency rules will be continued in effect for an additional 180 days if the Board gives notice of continuation in accordance with *Minnesota Statutes*, section 14.35 (1988).

Adoption of these rules will not result in additional spending by local and state public bodies in excess of \$100,000 per year for the first two years following adoption of these rules under the requirements of *Minnesota Statutes*, section 14.11 (1988).

James G. Sieben, Chairman
Minnesota Veterans Homes Board

Rules as Proposed (all new material)**9050.0010 [Emergency] SCOPE.**

The emergency rules in chapter 9050 apply to all veterans homes facilities presently owned or controlled by the state of Minnesota and operated by the Minnesota Veterans Homes Board, to all facilities that are or may be developed in the future for ownership or control by the state of Minnesota and operation by the Minnesota Veterans Homes Board, and to all individuals residing in or conducting activities in the facilities unless otherwise indicated.

9050.0020 [Emergency] APPLICABILITY.

Parts 9050.0010 to 9050.0900 [Emergency] govern the operation of the Minnesota veterans homes and establish the standards used to determine:

- A. an applicant's eligibility and suitability for admission to a board-operated facility;
- B. a resident's eligibility for participation in programs at a board-operated facility;
- C. appropriateness of a resident's continued care in a board-operated facility;
- D. services to be provided in connection with residence in a board-operated facility;
- E. procedures to be used in effecting admissions and discharges;
- F. standards of resident care and conduct; and
- G. charges to be paid by or on behalf of a resident for care in the home.

Parts 9050.0010 to 9050.0900 [Emergency] must be interpreted to give effect to Minnesota Statutes, chapters 196, 197, and 198.

9050.0030 [Emergency] COMPLIANCE WITH STATUTES, RULES, AND CODES.

The Minnesota Veterans Homes Board shall ensure compliance by the facility and staff with applicable statutes, with applicable rules of the Minnesota Department of Health and the Minnesota Department of Human Services, and with applicable health, safety, sanitation, building, zoning, and operations codes, including the following:

- A. Minnesota Department of Health licensure and operations requirements in chapters 4655 and 4660 and Minnesota Statutes, sections 144.50 to 144.56 and 144A.02 to 144A.10;
- B. chapter 4605 about communicable diseases;
- C. chapter 4620 about clean indoor air;
- D. chapter 4638 governing health care facilities generally;
- E. chapter 4642 about medical records;
- F. the fire code in chapter 7510 and Minnesota Statutes, section 299F.011;
- G. the Department of Labor and Industry safety code in chapter 5205;
- H. the building code in chapters 1300 to 1365 and Minnesota Statutes, section 16B.59;
- I. the plumbing code in parts 4715.0100 to 4715.6000 and Minnesota Statutes, sections 326.37 to 326.45;
- J. the vulnerable adults act in parts 9555.7100 to 9555.7700 and Minnesota Statutes, section 626.557;
- K. the health care facilities grievance provisions in Minnesota Statutes, sections 144A.51 to 144A.53; and
- L. the patient's bill of rights in Minnesota Statutes, section 144.651 and the complaint and resident's rights provisions of Minnesota Statutes, section 144A.13.

9050.0040 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 9050.0010 to 9050.0900 [Emergency].

Subp. 2. **Absence with notice; absence without notice.** "Absence with notice" or "absence without notice" means when a resident removes himself or herself from the particular area or level of care specified in the individual care plan with or without informing the Minnesota veterans home facility administration or staff of departure, intended destination, and anticipated return.

Subp. 3. **Administrator.** "Administrator" has the meaning given it in Minnesota Statutes, section 198.001, subdivision 4.

Subp. 4. **Admission.** "Admission" means the act that allows an eligible applicant to officially enter a Minnesota veterans home facility as a resident.

Subp. 5. **Admissions agreement.** "Admissions agreement" means a written contract entered into by the resident or the resident's legal representative or spouse, if any, or both, and the board or its designated representative at the time of admission of the resident to a board-operated facility. The agreement must:

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A. identify the service obligations of the facility with respect to the resident, as determined by the board according to licensure requirements and applicable statutes and rules, as specified in part 9050.0030 [Emergency];

B. identify the responsibilities of the resident with respect to the facility and other residents; and

C. if applicable, detail the amount to be paid as maintenance charge by or on behalf of a resident toward the cost of care, subject to a change in financial status of the person responsible for payment.

The agreement must be signed by the person responsible for paying any charges.

Subp. 6. **Against medical advice.** "Against medical advice" means a resident has left the particular area or level of care at the Minnesota veterans home facility or campus specified in the individual care plan, or has chosen to terminate resident status contrary to the recommendations of the attending physician.

Subp. 7. **Annual financial status review.** "Annual financial status review" means the annual verification and assessment of income, property, and expenses used to calculate the ability of a resident or the resident's legal representative or spouse acting on the resident's behalf, if any, to pay an amount toward the resident's cost of care.

Subp. 8. **Applicant.** "Applicant" means a person seeking admission to a board-operated facility.

Subp. 9. **Application.** "Application" means the applicant's written request for admission as provided in part 9050.0055 [Emergency].

Subp. 10. **Assessment.** "Assessment" means determination of an applicant's or resident's need for services by identifying the person's skills and behaviors and the environmental, physical, medical, and health factors that affect development or remediation of the person's skills and behavior.

Subp. 11. **Attending physician.** "Attending physician" means a physician licensed to practice medicine under Minnesota Statutes, chapter 147 who is an applicant's or resident's primary treating or supervising physician. An attending physician may be a Minnesota veterans home facility staff physician.

Subp. 12. **Basic needs.** "Basic needs" means food, clothing, shelter, utilities, personal hygiene items, and other subsistence items.

Subp. 13. **Bed change.** "Bed change" means a resident is assigned to a different bed in the same room, to another room, or to another building at the same level of care.

Subp. 14. **Bed hold.** "Bed hold" means a particular bed occupied by a Minnesota veterans home resident, or a comparable bed, that is held open for the resident during the resident's absence from a board-operated facility for medically necessary treatment at another health care facility, for a rehabilitation program, or during the resident's absence, with notice, from a board-operated facility.

Subp. 15. **Board.** "Board" means the board of directors of the Minnesota veterans homes or its designee created by Minnesota Statutes, section 198.022, and defined in Minnesota Statutes, section 198.001, subdivision 6.

Subp. 16. **Boarding care.** "Boarding care" means board, room, laundry, personal services, supervision over medication that can be safely self-administered, and a program of activities and supervision required by persons who are not able to properly care for themselves. Boarding care is the state equivalent of domiciliary care as that term is used by the United States Department of Veterans Affairs.

Subp. 17. **Boarding care facility.** "Boarding care facility" means a facility or unit of a facility licensed by the commissioner of health under chapters 4655 and 4660 and under Minnesota Statutes, sections 144.50 to 144.56.

Subp. 18. **Board-operated facility.** "Board-operated facility" means a building located on a Minnesota veterans home campus in which nursing care or boarding care is provided.

Subp. 19. **Business expense.** "Business expense" means the cost of producing income from a business, excluding capital expenditures and depreciation.

Subp. 20. **Campus.** "Campus" means the property owned or controlled by the state of Minnesota on which a Minnesota veterans home facility is located.

Subp. 21. **Care plan review.** "Care plan review" means an assessment of a resident's physical and mental condition and treatment needs. Care plan review includes:

A. a review of the resident's reason for seeking admission and treatment;

B. a review of the resident's diagnoses and assessments;

C. a review of the resident's individual care plan;

D. a review of the appropriateness, duration, and outcome of treatment and care provided at the board-operated facility; and

E. a review of the treatment and care recommendations of the multidisciplinary staff.

Subp. 22. **Chemical.** "Chemical" means alcohol, solvents, and other mood altering substances including controlled substances as

defined in Minnesota Statutes, chapter 152.

Subp. 23. **Chemical abuse.** "Chemical abuse" has the meaning given it in part 9530.4100, subpart 5.

Subp. 24. **Chemical dependency counselor.** "Chemical dependency counselor" means a staff person who meets the qualifications in part 9530.4270, subpart 4.

Subp. 25. **Chemical dependency treatment program.** "Chemical dependency treatment program" means an in-patient, residential treatment program operated in a licensed hospital or licensed facility under parts 9530.4100 to 9530.4450.

Subp. 26. **Chemically dependent; chemical dependency.** "Chemically dependent" or "chemical dependency" has the meaning given it in part 9530.4100, subpart 6.

Subp. 27. **Conservator.** "Conservator" has the meaning given it in Minnesota Statutes, section 525.539, subdivision 3.

Subp. 28. **Contract.** "Contract" means a legally enforceable agreement entered into by the board and an applicant, resident, or the resident's legal representative or spouse, if any, or a provider or by a provider and a subcontractor, that sets forth the rights and responsibilities of the parties.

Subp. 29. **Cost effective.** "Cost effective" means a result that is economical in terms of the goods and services received for the money spent, given feasible alternatives or a result in which the cost is less than the value of the benefit received.

Subp. 30. **Cost of care.** "Cost of care" means the average daily per resident cost of providing care, calculated separately for a resident of a boarding care facility or nursing home facility. The cost must be calculated according to part 9050.0500 [Emergency].

Subp. 31. **Dependent.** "Dependent" means an individual whom a person is entitled to claim as a dependent on the Minnesota or United States income tax return. An individual may not be claimed as a full unallocated dependent by more than one person. When two or more persons are entitled to claim the dependent, the dependent must be allocated equally among the persons unless the persons choose another allocation.

Subp. 32. **Detoxification program.** "Detoxification program" has the meaning given it in Minnesota Statutes, section 254A.08, subdivision 2.

Subp. 33. **Diagnostic and Statistical Manual of Mental Disorders; DSM-MD.** "Diagnostic and Statistical Manual of Mental Disorders" or "DSM-MD" means the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD). This publication is incorporated by reference, is not subject to frequent change, and is available at the State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155.

Subp. 34. **Dietician.** "Dietician" means a dietician registered with the National Commission on Dietetic Registration.

Subp. 35. **Direct cost.** "Direct cost" has the meaning given it in part 9050.0500 [Emergency], subpart 2, item A.

Subp. 36. **Discharge.** "Discharge" means a termination of residence in the nursing home or boarding care home that is documented in the discharge summary signed by the attending physician. For purposes of this definition, a discharge does not include:

A. transfer or bed change within a particular nursing or boarding care home;

B. a transfer from one licensure level to another at the same Minnesota veterans home campus; or

C. an absence from the nursing home or boarding care home for hospitalization, treatment purposes, or personal reasons when the resident is expected to return to the same nursing home or boarding care home and complies with the bed hold requirements of part 9050.0150 [Emergency].

Subp. 37. **Earned income.** "Earned income" means compensation from lawful employment or lawful self-employment, including salaries, wages, tips, gratuities, commissions, earnings from self-employment, earned income tax credits, incentive payments from work or training programs, payments made by an employer for regularly accrued vacation or sick leave, employee bonuses and profit sharing, jury duty pay, picket duty pay, and profit from other lawful activities earned by the individual's effort or labor. Earned income does not include returns from capital investment or benefits that accrue as compensation for lack of employment. Earned income must be determined according to parts 9050.0700 to 9050.0740 [Emergency].

Subp. 38. **Educational expenses.** "Educational expenses" means the amounts paid for a person's tuition, mandatory fees, transportation to and from school, supplies and equipment required for coursework, and child care while the person is in school or in transit.

Subp. 39. **Emergency.** "Emergency" means a life-threatening medical condition that if not immediately diagnosed and treated could cause a person serious physical or mental disability, continuation of severe pain, or death.

Subp. 40. **Equity.** "Equity" means the amount of equity in real or personal property owned by a person. Equity is determined by subtracting any outstanding encumbrances on fair market value.

Subp. 41. **Goal.** "Goal" means the desired behavioral outcome of an activity that can be observed and reliably measured by two or more independent observers.

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Subp. 42. **Gross income.** "Gross income" means all earned and unearned income before any deduction, disregard, or exclusion.

Subp. 43. **Guardian.** "Guardian" has the meaning given it in Minnesota Statutes, section 525.539, subdivision 2.

Subp. 44. **Health care facility.** "Health care facility" means a hospital, nursing home, boarding care home, or supervised living facility licensed by the Minnesota Department of Health under Minnesota Statutes, sections 144.50 to 144.56 or 144A.01 to 144A.17.

Subp. 45. **Health care professional.** "Health care professional" means a licensed health professional as defined in Minnesota Statutes, section 144.4172, subdivision 7.

Subp. 46. **Health care service.** "Health care service" means a diagnostic, preventive, or corrective procedure provided in a health care facility, or by or under the supervision of a health care professional, or by or under the auspices of a rehabilitation program as defined in subpart 103.

Subp. 47. **Home.** "Home" has the meaning given it in Minnesota Statutes, section 198.001, subdivision 8.

Subp. 48. **Homestead.** "Homestead" means a dwelling owned and occupied by the applicant or resident, or that person's spouse, as a primary residence. Homestead includes the land upon which the dwelling is situated as specified in Minnesota Statutes, section 510.02.

Subp. 49. **Hospital.** "Hospital" means an acute care institution as defined in Minnesota Statutes, section 144.696, subdivision 3, and licensed under Minnesota Statutes, sections 144.50 to 144.58.

Subp. 50. **Hospital absence.** "Hospital absence" means an absence from a board-operated facility for medically necessary treatment in a hospital.

Subp. 51. **Household.** "Household" means the spouse of an applicant or resident and the applicant's or resident's dependent child or children living in the homestead.

Subp. 52. **Household income.** "Household income" means all income received by or on behalf of the applicant's or resident's spouse in a calendar year.

Subp. 53. **Inappropriate and harmful use.** "Inappropriate and harmful use" has the meaning given it in part 9530.4100, subpart 14.

Subp. 54. **Income.** "Income" means cash or in-kind benefits, whether earned or unearned, received by or available to an individual and not established as property under part 9050.0700 [Emergency], subpart 1.

Subp. 55. **Independent living; live independently.** "Independent living" or "live independently" means the situation of an individual living in his or her own dwelling and having the opportunity to control basic decisions about his or her own life to the fullest extent possible.

Subp. 56. **Independent physician.** "Independent physician" means a physician licensed to practice medicine under Minnesota Statutes, chapter 147, who is not the applicant's or resident's attending physician. The independent physician may be a Minnesota veterans home staff physician of a board-operated facility other than the one in which the individual in question resides.

Subp. 57. **Indirect cost.** "Indirect cost" has the meaning given it in part 9050.0500 [Emergency], subpart 2, item B.

Subp. 58. **Individual care plan.** "Individual care plan" means a written plan developed under part 4655.6000 for implementing and coordinating a resident's care and treatment that is developed and maintained by the multidisciplinary staff on the basis of assessment results for each resident. The purpose of the individual care plan is to integrate care, identify and meet the service needs of the resident, set treatment goals and objectives for the resident, and identify responsibilities of the multidisciplinary staff for the resident's care and treatment.

Subp. 59. **International Classification of Diseases; ICD-9-CM.** "International Classification of Diseases" or "ICD-9-CM" means the current edition of the Clinical Manual of the International Classification of Diseases, as published by the Commission on Professional and Hospital Activities, 1968 Green Road, Ann Arbor, Michigan. This publication is incorporated by reference and is available through the Minitex interlibrary loan system. It is not subject to frequent change.

Subp. 60. **Legal availability.** "Legal availability" means a person's right under the law to secure, possess, dispose of, or control income or property.

Subp. 61. **Legal representative.** "Legal representative" means an individual acting or speaking on behalf of an applicant or resident whose authority is granted or recognized by statute and the nature and extent of that authority is defined by statute, by a court of competent jurisdiction, by other legal action, or by recognition of the United States Department of Veterans Affairs or Social Security Administration in the matter under consideration. Examples are a guardian, conservator, person with power of attorney, custodian, and representative payee.

Subp. 62. **Level of care.** "Level of care" means the licensure level of the board-operated facility in which a person lives or the case mix classification assigned to the person under parts 9549.0058, subpart 2, and 9549.0059.

Subp. 63. **Level of care change.** "Level of care change" means movement of a resident from one level of care to another within a board-operated facility or from one facility to another on the same campus.

Subp. 64. **Licensed consulting psychologist.** "Licensed consulting psychologist" means a person licensed under Minnesota Statutes, section 148.91, subdivision 4.

Subp. 65. **Licensed practical nurse.** "Licensed practical nurse" means a person licensed under Minnesota Statutes, sections 148.91 to 148.299.

Subp. 66. **Licensed psychologist.** "Licensed psychologist" means a person licensed under Minnesota Statutes, section 148.91, subdivision 5.

Subp. 67. **Life estate.** "Life estate" means an interest in real property with the right of use or enjoyment limited to the life or lives of one or more human beings that is not terminable at any fixed or computable period of time.

Subp. 68. **Lump sum.** "Lump sum" means nonrecurring income received at one time. Examples include windfalls, debt repayments, payments from the sale of property, tax refunds, payments of accrued benefits, gifts, and inheritances.

Subp. 69. **Maintenance charge.** "Maintenance charge" means the portion of the cost of care paid by or on behalf of a specific resident.

Subp. 70. **Market rent.** "Market rent" means the rental income that a property would most probably command on the open market in an arm's length negotiation as shown by current rentals being paid for comparable space of comparable worth.

Subp. 71. **Market value.** "Market value" means the most probable price in terms of money that property should bring in a competitive open market under all conditions requisite to a fair sale. The value on the most recent property tax statement must be presumed to be the market value for purposes of calculating the maintenance charge unless the person or the board or its designated representative provides convincing evidence to overcome the presumption.

Subp. 72. **Medical condition.** "Medical condition" means the diagnosis or diagnoses listed in current editions of ICD-9-CM or DSM-MD, made by the applicant's or resident's attending physician.

Subp. 73. **Medical director.** "Medical director" means a physician licensed under Minnesota Statutes, chapter 147, and employed by or under contract to the board who is responsible for overall direction of medical practice in a facility and for liaison with independent physicians at the facility.

Subp. 74. **Medical treatment plan.** "Medical treatment plan" means the plan signed by the resident's attending physician that includes the resident's primary and secondary diagnoses, order for treatment and medications, rehabilitation potential, rehabilitation procedures if ordered, clinical monitoring procedures, and discharge potential. The medical treatment plan is a component of the individual care plan.

Subp. 75. **Medically necessary; medical necessity.** "Medically necessary" or "medical necessity" means a health care service that is consistent with the resident's diagnosis or condition and is provided pursuant to the provider's authority under state law and within the scope of licensure, if any, and:

A. is recognized as the prevailing standard or current practice by the provider's peer group;

B. is rendered:

(1) in response to a life-threatening condition or pain;

(2) to treat an injury, illness, or infection;

(3) to treat a condition that could result in physical or mental disability; or

(4) to achieve a level of physical or mental function consistent with prevailing community standards for the diagnosis or condition; or

C. is a preventive health care service.

Subp. 76. **Mental health practitioner.** "Mental health practitioner" means a person qualified under Minnesota Statutes, section 245.462, subdivision 17.

Subp. 77. **Mental health professional.** "Mental health professional" means a person qualified under Minnesota Statutes, section 245.462, subdivision 18.

Subp. 78. **Mental illness.** "Mental illness" has the meaning given it in Minnesota Statutes, section 245.462, subdivision 20, clause (a).

Subp. 79. **Month.** "Month" means a calendar month.

Subp. 80. **Multidisciplinary staff.** "Multidisciplinary staff" means the health care professionals and mental health practitioners

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or mental health professionals employed by or under contract to the board to provide clinical and evaluative services in the treatment of conditions of the residents.

Subp. 81. **Net income.** "Net income" means income remaining after allowable deductions and exclusions have been subtracted from gross income under parts 9050.0720 to 9050.0755 [Emergency].

Subp. 82. **Net worth.** "Net worth" means the total sum of property owned by an applicant, resident, or spouse of an applicant or resident or managed by a legal representative on behalf of an applicant, resident, or spouse of an applicant or resident less any encumbrances on the property.

Subp. 83. **Nursing care.** "Nursing care" has the meaning given it in part 4655.0100, subpart 8, item B, and Minnesota Statutes, section 144A.01, subdivision 6.

Subp. 84. **Nursing home.** "Nursing home" means a facility licensed by the commissioner of health under chapters 4655 and 4660 and Minnesota Statutes, chapter 144A.

Subp. 85. **Nursing staff.** "Nursing staff" has the meaning given it in part 4655.0100, subpart 9.

Subp. 86. **Objective.** "Objective" means a short-term treatment expectation and its accompanying measurable physical or behavioral criteria as specified in the individual care plan. An objective is set to facilitate achieving the goals in a resident's individual care plan.

Subp. 87. **Outcome.** "Outcome" means the measure of change or the degree of attainment of treatment goals and objectives in the resident's individual care plan that is achieved as a result of provision of service.

Subp. 88. **Pathological use.** "Pathological use" has the meaning given it in part 9530.4100, subpart 18.

Subp. 89. **Personal absence.** "Personal absence" means an absence from a board-operated facility for family visits, vacations, or other personal, nontreatment related reasons.

Subp. 90. **Personal fund account.** "Personal fund account" means the account maintained at a facility by a resident that is solely for use of that resident and managed according to parts 4655.4150 to 4655.4170.

Subp. 91. **Personal property.** "Personal property" means property other than real property.

Subp. 92. **Pharmacist.** "Pharmacist" means a person licensed under Minnesota Statutes, chapter 151.

Subp. 93. **Physical therapist.** "Physical therapist" means a person licensed under Minnesota Statutes, sections 148.65 to 148.78.

Subp. 94. **Preventive health care service.** "Preventive health care service" means a health care service that is provided to a resident to avoid or minimize the occurrence of illness, infection, disability, or other health condition.

Subp. 95. **Psychiatrist.** "Psychiatrist" means a physician licensed under Minnesota Statutes, chapter 147, who can give written documentation of having successfully completed a postgraduate psychiatry program of at least three years duration that is accredited by the American Board of Psychiatry and Neurology.

Subp. 96. **Rate year.** "Rate year" means the state fiscal year for which a payment rate is effective.

Subp. 97. **Real property.** "Real property" means land and all buildings, structures, and improvements or other fixtures on it, all rights and privileges belonging or appertaining to it, all manufactured homes attached to it on permanent foundations, and all trees, mines, minerals, quarries, and fossils on or under it.

Subp. 98. **Registered nurse.** "Registered nurse" means a nurse licensed under Minnesota Statutes, sections 148.171 to 148.285.

Subp. 99. **Rehabilitation program.** "Rehabilitation program" means a program of chemical dependency treatment or rehabilitation provided in a residential facility as defined in Minnesota Statutes, section 245.782, subdivision 6.

Subp. 100. **Reporting year.** "Reporting year" means the period from April 1 to March 31 immediately preceding the rate year, for which the nursing home or boarding care home calculates its costs, and which is the basis for the determination of the cost of care for the following rate year.

Subp. 101. **Representative payee.** "Representative payee" means an individual designated by the Social Security Administration to receive benefits on behalf of the applicant or resident.

Subp. 102. **Reserved bed.** "Reserved bed" has the meaning given it in part 9050.0150 [Emergency], subpart 6.

Subp. 103. **Resident.** "Resident" has the meaning given it in Minnesota Statutes, section 198.001, subdivision 2.

Subp. 104. **Resident's financial information file.** "Resident's financial information file" means financial data collected to determine the ability of an applicant or resident to pay or have paid the amount indicated in the admissions agreement toward the resident's cost of care.

Subp. 105. **Resource.** "Resource" means any property, income, or benefit that is available to pay for the cost of care of the resident.

Subp. 106. **Social worker.** "Social worker" means a person who is licensed under Minnesota Statutes, section 148B.21, who has met the minimum qualifications of a social worker under the Minnesota Merit System or a county civil service system in Minnesota.

Subp. 107. **Staff physician.** "Staff physician" means a physician licensed to practice medicine under Minnesota Statutes, chapter 147, who is employed by or under contract to the board to provide services in a board-operated facility.

Subp. 108. **Staff psychiatrist.** "Staff psychiatrist" means a psychiatrist who is employed by or under contract to the board to provide psychiatric services in a board-operated facility.

Subp. 109. **Staff psychologist.** "Staff psychologist" means a person licensed under Minnesota Statutes, section 148.91, subdivision 4 or 5, who is employed by or under contract to the board to provide psychological services in a board-operated facility.

Subp. 110. **Transfer.** "Transfer" means:

A. movement of a resident to or from another health care facility for purposes of hospitalization or other health care services if a bed is held at the particular board-operated facility for the resident pending completion of medically necessary treatment and the resident's anticipated return to the same board-operated facility; or

B. movement to or from a nursing home to a boarding care facility or to or from a boarding care facility to a nursing home at a particular campus, when a bed hold is not required and a return to the resident's previous level of care is not anticipated.

Subp. 111. **Treatment.** "Treatment" means the use of medically necessary health care services to prevent, correct, or ameliorate disease or abnormalities detected by diagnostic or screening procedures.

Subp. 112. **Treatment absence.** "Treatment absence" means an absence of a resident from a board-operated facility, with the expectation of the resident's return to the board-operated facility. The absence must be to be placed in a residential institutional setting, including a detoxification facility, a rehabilitation program, or health care facility other than a hospital.

Subp. 113. **Unearned income.** "Unearned income" means any form of gross income that does not meet the definition of earned income. Unearned income includes an annuity, retirement, or disability benefit, including veteran's or worker's compensation, social security disability, railroad retirement benefits, or unemployment compensation; benefits under a federally funded categorical assistance program including supplemental security income, or other assistance programs, gifts, rents, dividends, interest and royalties, support and maintenance payments, pension payments, return on capital investment, insurance payments or settlements, severance payments, employment benefits and rewards for past employment; and educational grants, deferred payment loans, and scholarships. Unearned income must be calculated according to part 9050.0710 [Emergency], subpart 5.

Subp. 114. **Unemployment compensation.** "Unemployment compensation" means the insurance benefits paid to an unemployed worker under Minnesota Statutes, sections 268.03 to 268.231.

Subp. 115. **Utilization review.** "Utilization review" means the activity or function within the board-operated facility responsible for the ongoing evaluation of the necessity for and the quality and timeliness of services provided in board-operated facilities, according to chapters 4655 and 4660, when the services are not under the responsibility of a professional standards review organization.

Subp. 116. **Verification.** "Verification" means the process the facility financial staff or social services staff must use to establish the accuracy or completeness of information from an applicant, a resident, a third party, or other source as that information relates to a person's eligibility for admission, suitability for admission, or calculation of maintenance charge.

Subp. 117. **Veteran.** "Veteran" has the meaning given it in Minnesota Statutes, section 197.447.

Subp. 118. **Volunteer.** "Volunteer" means a person who, without compensation, gives time and effort in supportive or person-to-person services.

Subp. 119. **Vulnerable adults act.** "Vulnerable adults act" has the meaning given it in Minnesota Statutes, section 626.557.

Subp. 120. **Working days.** "Working days" means Monday through Friday, excluding state recognized legal holidays.

9050.0050 [Emergency] PERSONS ELIGIBLE FOR ADMISSION.

Subpart 1. **General qualifications.** A person seeking admission to a board-operated facility must meet the admission requirements in Minnesota Statutes, sections 198.01, 198.02, and 198.03, and the criteria in part 9050.0070 [Emergency]. The person must also provide current evidence of medical need for admission and financial information as specified in parts 9050.0800 to 9050.0900 [Emergency].

For purposes of subparts 2 and 3, a person is a resident of the state if the person has been physically present in the state on a continuous basis for six months before the date of application for admission.

For purposes of subparts 2 to 4, an applicant or resident has adequate means of financial support if the applicant or resident is financially able to live independently. A person is financially able to live independently if the person has assets in excess of \$3,000 or income sufficient to meet basic needs.

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Subp. 2. **Veterans.** A person must meet the criteria in Minnesota Statutes, sections 197.447 and 198.022, paragraphs (1) and (2), to be eligible for admission to a board-operated facility as a veteran.

Subp. 3. **Nonveterans.** A person who is not a veteran must meet the criteria in Minnesota Statutes, section 198.022, paragraphs (1) and (3), to be eligible for admission to a board-operated facility.

Subp. 4. **Exceptions.** An applicant otherwise eligible for admission to a board-operated facility under subpart 2 or 3 who has adequate means of support may be admitted to a board-operated facility if the applicant complies with the requirements in Minnesota Statutes, section 198.03. An applicant seeking admission under Minnesota Statutes, section 198.03, and this subpart must not have past unpaid debts to the state for maintenance charges for prior residence in a board-operated facility. An applicant who has past unpaid debts to the state must make full payment of the past unpaid bills for maintenance charges or negotiate a reasonable repayment plan with the board before an application for admission will be placed on the active waiting list.

9050.0055 [Emergency] ADMISSIONS PROCESS, WAITING LIST, PRIORITY.

Subpart 1. **Process.** A person seeking admission to a board-operated facility may obtain an application form and information describing the required application procedures from the facility. The social services staff of the board-operated facility shall assist the person to complete the application form and process. When an application is requested, the social services staff shall provide a checklist of items requiring documentation, information, or verification to complete the application. An application is complete when the following information is received by the board-operated facility:

- A. a completed, signed application form;
- B. a copy of the person's military discharge papers;
- C. a signed copy of the board-operated facility's admission policy statement; and
- D. the following medical records:

- (1) a discharge summary from all hospitals at which the person received treatment within the five years before application;
- (2) a patient care information form from the current nursing home, if any;
- (3) if the person resides at home at the time of application, a patient care information form completed by the primary caregiver; and
- (4) if the person resides at home at the time of application, a history and physical from the attending physician.

The social services staff of the board-operated facility shall keep a checklist on which to record the date of receipt of information for the person's application file. Upon completion of an application file, a determination must be made by the board-operated facility social services staff as to whether the applicant meets the general eligibility requirements in part 9050.0050 [Emergency]. If the requirements of part 9050.0050 [Emergency] are met, an applicant's name must be referred to the admissions committee or be placed on the waiting list for the particular facility as specified in subpart 3.

Subp. 2. **Timing of review by the admissions committee.** The admissions committee shall review an application for admission to determine the applicant's suitability for admission to a board-operated facility as determined by the criteria in part 9050.0070 [Emergency], subparts 3 and 4, according to items A and B.

A. If the board-operated facility to which a person has applied has no waiting list, the admissions committee shall review the application file within ten working days of its completion.

B. If the board-operated facility to which the person has applied has a waiting list, the admissions committee shall review the application file within ten working days from the time the applicant's name reaches the first place on the active waiting list and a bed becomes available.

Subp. 3. **Waiting lists.** Each board-operated facility shall maintain an active waiting list and an inactive waiting list to determine the admission priority of applicants. The active waiting list is for applicants desiring the first available bed at the level of care appropriate to the applicant's needs. The inactive waiting list is for those applicants who do not want to exercise their option for admission, but who want to be prepared to exercise that option and want to be kept informed of openings or of the length of the active waiting list at the board-operated facility.

If an eligible applicant cannot be considered for admission to a board-operated facility with an appropriate level of care due to unavailability of a bed, the applicant must be placed on either an active or inactive waiting list according to preference. An applicant shall indicate preference for the active or inactive waiting list on the application for admission. An applicant may request movement from one waiting list to another at any time, unless the request is precluded by subpart 5. An applicant requesting movement from one waiting list to another must be placed at the bottom of the waiting list to which movement was requested. The applicant's position on the waiting list is determined by the date on which the application file is complete.

Subp. 4. **Priority.** Current residents of board-operated facilities have priority for consideration for admission to other board-operated

facilities at an appropriate level of care if they meet the criteria for that level of care and a bed is available. A person on the active waiting list must be considered for admission and, if approved by the admissions committee, offered a bed consistent with the person's position on the active waiting list and the person's case mix classification and level of care needs as determined by the admissions committee. A person offered admission has seven working days to consider the offer. If the person declines the offer of admission, the person's name must be put on the bottom of the active waiting list, unless the person requests removal from the active waiting list or transfer to the inactive waiting list. If the person fails to respond to the offer of admission within seven working days from the date the offer is made, the person's application file must be closed and the person's name removed from all waiting lists. A person whose name is removed from all waiting lists for failure to respond to an offer for admission must reapply.

Subp. 5. Limitations on refusals to exercise option for admission from active waiting list. Refusal or failure to exercise the option for admission from the active waiting list is limited as set forth in items A and B.

A. A person who is placed on the waiting list after the effective date of parts 9050.0010 to 9050.0900 [Emergency] and who twice refuses an opportunity for admission must be removed from the active waiting list and placed on the inactive waiting list. The person is not permitted to transfer to the active waiting list for one year from the date the person refused an opportunity for admission unless the person can verify by an attending physician a significant change in health status since the date of last refusal.

B. A person who is on the waiting list as of the effective date of parts 9050.0010 to 9050.0900 [Emergency] and who has previously refused one or more opportunities for admission must be allowed one additional opportunity for admission before being moved to the inactive waiting list.

Subp. 6. Initial financial status review. The facility financial staff shall evaluate the financial status of a person approved for admission. The purpose of the initial financial status review is to determine the person's ability to pay toward the cost of care and to calculate the person's maintenance charge. The financial status review must be conducted according to parts 9050.0800 to 9050.0900 [Emergency]. The maintenance charge calculation must be according to part 9050.0560 [Emergency].

9050.0060 [Emergency] ADMISSIONS COMMITTEE; CREATION, COMPOSITION, AND DUTIES.

Subpart 1. Admissions committee appointed. The administrator of a facility shall appoint an admissions committee for that facility to review and act on applications for admission to that facility.

Subp. 2. Composition of admissions committee. The admissions committee must consist of three or more of the following staff members of the board-operated facility: the administrator or a designee, a registered nurse, a social worker, a mental health professional or mental health practitioner, and a physical therapist. Additional admissions committee members may include any of the following staff members, as indicated by the diagnosis or diagnoses of the applicant to be reviewed: a chemical dependency counselor, a mental health professional or mental health practitioner, physical therapist, dietician, and clergy member.

Subp. 3. Duties. The admissions committee has the duties specified in items A and B.

A. The admissions committee shall review and act on all applications by conducting a screening as specified in subpart 4, and by reviewing the completed application and documentation in part 9050.0055 [Emergency]. The admissions committee shall determine whether or not to admit the applicant according to the facility's ability to meet the applicant's care needs, based on the admissions criteria in part 9050.0070 [Emergency], subparts 3 and 4.

B. The admissions committee shall record the minutes of each committee meeting. The minutes must reflect the date of the review, the applicant's name, the current living status of the applicant, the reason for the placement request, a brief description of the applicant's physical or mental status, and the rationale behind the committee decision. The minutes must be kept by the administrator for the time specified for retention of medical records in parts 4655.3200 to 4655.3600.

Subp. 4. Screening. To prepare for review of an application for admission, the admissions committee or its designated representatives shall conduct a preadmission screening similar to that prescribed in Minnesota Statutes, section 256B.091. The admissions committee or its designated representatives shall interview the applicant or the applicant's legal representative, if any, and the applicant's family members with the applicant's consent. The admissions committee shall also obtain the following information:

- A. military service records or discharge information about the applicant or the applicant's spouse;
- B. medical and psychiatric information from previous or current placements and current attending physicians and, as appropriate, psychologists or psychiatrists;
- C. information from the applicant's previous or current placements about the applicant's compliance with the applicant's medical treatment plan or individual treatment or care plan;
- D. Bureau of Criminal Apprehension reports or criminal background information or reports, as appropriate;
- E. level of care information from previous and current placements; and
- F. financial status for purposes of determining the applicant's ability to pay.

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9050.0070 [Emergency] TYPES OF ADMISSIONS.

Subpart 1. **General criteria.** Admissions must be according to the requirements in parts 4655.0400, 4655.0500, 4655.0700, and 4655.1500.

Subp. 2. **Selection of residents.** Of those applicants eligible for admission under part 9050.0050 [Emergency] and Minnesota Statutes, sections 198.01, 198.022, and 198.03, the admissions committee of the board-operated facility, in consultation with the applicant's attending physician, shall determine whether an applicant is to be admitted by applying the criteria for each type of facility in subparts 3 and 4.

Subp. 3. **Criteria for admission to and continued stay in a boarding care facility.** The decision about admission to or continued stay in a board-operated facility licensed to provide boarding care must be based on the facility's ability to meet the care needs of the applicant or resident. A person whose care needs can be met by the board-operated facility must be admitted, placed on the waiting list, or retained as a resident if the admissions committee determines the person meets the criteria in items A to N. A person whose care needs cannot be met must be denied admission or continued stay if the admissions committee determines the person does not meet the criteria in items A to N.

A. The person must have or be assigned a case mix classification of A or B under the case mix system established by parts 9549.0058, subpart 2, and 9549.0059 and Minnesota Statutes, section 144.072.

B. The person must have a medical and, if appropriate, psychiatric diagnosis from the attending physician indicating placement in a boarding care facility is a medical necessity.

C. The person's attending physician must document the person's need for the services provided in a boarding care facility.

D. A person must be alert and oriented to person, place, and time, and able to function within a structure of daily monitoring by the nursing staff of the boarding care facility. A person who has a diagnosis of mental illness must be assessed by a staff psychiatrist or psychologist.

E. A person must be able to recognize and appropriately react to hazards in the environment. A person who has a diagnosis of mental illness must be assessed by a staff psychiatrist or psychologist. The case mix indicator, developed under Minnesota Statutes, section 144.072, for orientation and self-preservation skills must be used to determine whether the individual has the mental judgment or physical ability necessary to function in a changing environment and a potentially harmful situation.

F. The person must participate in establishing and comply with the person's individual care plan and comply with the medical treatment plan prescribed by the attending physician. Continuing compliance must be measured as specified in the compliance review process in part 9050.0300 [Emergency].

G. A person must be physically and mentally capable of providing personal care and hygiene including dressing, grooming, washing other than bathing, eating, and toileting. A person who has a diagnosis of mental illness must be assessed by a staff psychiatrist or psychologist.

H. The person must be assessed by a staff registered nurse as independent in transferring and mobility.

I. The person must require no more than twice daily face-to-face monitoring by the nursing staff of the boarding care facility. For continued stay, face-to-face monitoring for special medical needs may exceed twice daily for up to five days with approval of the assistant director of nursing of the boarding care facility.

J. A staff psychiatrist or psychologist must document that the person with a history of violent or self-abusive behavior does not pose a threat of harm to self or others.

K. A person diagnosed by the attending physician as actively psychotic must require no more than twice daily face-to-face monitoring by facility nursing staff and no more than weekly face-to-face therapeutic contacts with a staff psychiatrist or psychologist.

L. A person with a history of chemical abuse or a diagnosis of chemical dependency must have successfully completed an in-patient residential chemical dependency treatment or rehabilitation program as defined in part 9050.0040 [Emergency], subparts 25 and 103, and must be chemically free. For purposes of this item, a person is chemically free if the person can document six months of nonuse or use with no symptoms of dependency prior to admission and demonstrates continued nonuse of chemicals during residence.

M. The person must be able to comply with Minnesota veterans homes rules in parts 9050.0010 to 9050.0900 [Emergency]. Ability to comply is demonstrated by a documented history of compliance in a prior placement, if any. Continuing compliance must be measured as specified in the compliance review process in part 9050.0300 [Emergency].

N. The person must be free from any reportable communicable disease or infection as defined in part 4605.7040 that poses a threat to the health and safety of others.

Subp. 4. **Criteria for admission to and continued stay in a nursing home facility.** The decision about admission or continued stay in a board-operated facility licensed as a nursing home must be based on the facility's ability to meet the care needs of the person.

A person whose care needs can be met by the facility must be admitted, placed on the waiting list, or retained as a resident if the admissions committee determines that the person meets all of the criteria in items A to F. A person whose care needs cannot be met must not be admitted or retained as a resident if the admissions committee determines the person fails to meet all of the criteria in items A to F.

A. The person must have or be assigned a case mix classification of A to K under the case mix system established by parts 9549.0058, subpart 2, and 9549.0059 and Minnesota Statutes, section 144.072.

B. The person must have a medical and, if appropriate, psychiatric diagnosis from the attending physician indicating placement in a nursing home is a medical necessity.

C. The person's attending physician must document the person's need for the services provided in a nursing home.

D. The person must demonstrate a history of compliance with an individual treatment or care plan or with the medical treatment plan prescribed by the attending physician. The person with a history of noncompliance must be assessed by a staff registered nurse as to the facility's ability to meet the person's care needs.

E. The person must be free from any reportable communicable disease or infection as defined in part 4605.7040 that poses a threat to the health and safety of others.

F. A staff psychiatrist or psychologist must document that the person with a history of violent or self-abusive behavior does not pose a threat of harm to self or others.

9050.0080 [Emergency] ADMISSION DECISION; NOTICE AND REVIEW.

Subpart 1. **Notice.** An applicant must be advised by the board, in writing, of the admissions committee's decision and the reasons for the decision. The notice must be sent to the applicant no later than three working days after the admissions committee's decision. The notice must include information about the applicant's right to request a review of a denial and about the review process as specified in subpart 2 or information regarding additional actions necessary to effect admission. Nothing in this subpart precludes concurrent or prior notification by telephone.

Subp. 2. **Review.** An applicant or the applicant's legal representative may request a review of a decision of the admissions committee to deny the applicant's admission. The applicant or applicant's legal representative desiring the review shall forward the request, in writing, to the administrator of the facility. The review must be completed within 30 days of receipt of the request. The administrator may request that the admissions committee reconsider its decision or the administrator may review the existing minutes to determine the basis for a negative decision. If a reconsideration is requested, it must be conducted at the next scheduled admissions committee meeting. The decision resulting from the reconsideration and the reasons for the decision must be forwarded to the administrator in writing. The administrator shall conduct a final review of the admissions committee's decision, based on the admissions criteria in part 9050.0070 [Emergency], subpart 3 or 4, and shall issue a final decision. The decision of the administrator shall constitute final agency action.

9050.0100 [Emergency] TRANSFER.

Subpart 1. **Generally.** A resident may be transferred from a board-operated facility to another health care facility or rehabilitation program or detoxification program if:

A. ordered or recommended by the attending physician or the utilization review committee as part of the resident's individual care plan;

B. requested by the resident or the resident's legal representative, if any; or

C. an emergency situation exists.

A resident may be transferred only with the resident's consent or the consent of the legal representative, if any, except in an emergency when obtaining consent before transfer is not possible. A resident who refuses consent for transfer to another health care facility or rehabilitation program or detoxification program on recommendation of the attending physician or the utilization review committee, or both, may be subject to discharge for noncompliance with the resident's individual care plan. The utilization review committee's decision to recommend discharge of a resident for refusing consent for transfer is limited by the Patient's Bill of Rights established in Minnesota Statutes, section 144.651, and must be based on the facility's ability to meet the person's care needs as determined by the criteria in part 9050.0700 [Emergency], subparts 3 and 4. A resident transferred from another facility back to the board-operated facility does not need to reapply for admission.

Subp. 2. **Notice.** Unless a situation occurs that is outside the board-operated facility's control, such as a utilization review, the accommodation of newly admitted residents, a change in the resident's medical or treatment program, the resident's own or another resident's welfare, or nonpayment of stay, a resident for whom the utilization review committee or the attending physician recommends a transfer must be notified of the recommendation at least:

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A. 30 days before the anticipated transfer date, if to a non-board-operated facility or program, according to Minnesota Statutes, section 144.651, subdivision 29; and

B. seven days before the anticipated transfer to another bed or level of care within the same board-operated facility, or to another board-operated facility located at the same campus, according to Minnesota Statutes, section 144.651, subdivision 29.

Subp. 3. **Mechanisms of effecting transfer.** A transfer must be effected in the manner applicable to a voluntary discharge in part 9050.0210 [Emergency]. The party recommending or requesting transfer shall arrange for transportation for the resident to the new facility or location.

Subp. 4. **Transfers to United States Department of Veterans Affairs Medical Center.** The board-operated facility must not guarantee access or admission to or treatment at the United States Department of Veterans Affairs Medical Center, nor does residence at a board-operated facility grant residents preference with regard to access, admissions, or treatment at the United States Department of Veterans Affairs Medical Center. If the United States Department of Veterans Affairs Medical Center agrees to accept the resident and has an available bed, the resident must be transferred to that facility. If the United States Department of Veterans Affairs Medical Center denies the resident treatment or admission, the resident must be transferred to a hospital or other health care facility that is able to provide the appropriate service. The Minnesota Veterans Homes Board, the Minnesota veterans home facility, the Minnesota Department of Veterans Affairs, or the state of Minnesota are not responsible for the costs of a resident's hospitalization or treatment at a facility that is not a board-operated facility.

Subp. 5. **Appeals.** A resident may appeal a transfer decision that is not based on an emergency. Appeal is to be taken in the same manner as appeal of discharge under part 9050.0220 [Emergency].

9050.0150 [Emergency] BED HOLD.

Subpart 1. **Generally.** A resident's bed or a comparable bed at an appropriate level of care must be held for the resident if the resident is absent from the board-operated facility for a circumstance specified in subparts 2 to 4 and continues payment as required in subpart 5 and part 9050.0540 [Emergency].

Subp. 2. **Hospital absence.** A resident's bed must be held during a resident's hospital absence if the treatment in the hospital is on the order of the resident's attending physician or is a result of a medical emergency. A hospital absence in excess of 30 days must be periodically monitored by facility staff with regard to the resident's progress and likelihood the resident can be cared for on return to the board-operated facility as determined by the criteria in part 9050.0070 [Emergency], subpart 3 or 4. If satisfactory progress is not being made, discharge proceedings must be started by the utilization review committee.

Subp. 3. **Treatment absence.** A resident's bed must be held during a resident's treatment absence if the treatment is on the order of the resident's attending physician as part of the resident's individual care plan. The resident must participate in treatment on a continuing basis and make satisfactory progress as determined by the administrator of the treatment program. If satisfactory progress is not being made, discharge proceedings must be instituted by the utilization review committee.

Subp. 4. **Personal absence.** A resident's bed must be held when the person leaves the board-operated facility on a personal absence. A personal absence may be no longer than 96 hours.

Subp. 5. **Effect on maintenance charges.** A resident whose bed is held under this part shall continue to pay any maintenance charge or charges that accrued or are accruing either before or during the resident's absence from the board-operated facility. Absences exceeding 96 hours with or without notice result in termination of the resident's entitlement to the per diem payment of the United States Department of Veterans Affairs retroactive to the date of departure.

Subp. 6. **Exception.** A bed may be held without charge for an approved applicant for up to two weeks from the date of acceptance of the offer of admission. A bed held under this subpart must be a reserved bed.

Subp. 7. **Monitoring of bed hold status.** The appropriateness of continued bed hold must be reviewed by the utilization review committee of the board-operated facility at least once every 30 days during the resident's ongoing absence. A decision about approval of continued bed hold must be based on the resident's satisfactory progress toward recovery from the condition for which the resident was hospitalized or completion of the treatment program or rehabilitation program, and the existence of a reasonable expectation that the facility will be able to care for the resident upon return to the board-operated facility and the resident's compliance with subpart 5 if applicable. Continued bed hold or continued residency with personal absences exceeding 96 hours or more than five personal absences per year that are less than 96 hours must be reviewed by the utilization review committee. The decision about continued residence must be based on the resident's continuing need for care as determined by the utilization review committee. The determination must be according to the criteria in part 9050.0070 [Emergency], subparts 3 and 4.

9050.0200 [Emergency] DISCHARGE.

Subpart 1. **General criteria.** Discharge from a nursing care facility or a boarding care facility constitutes permanent release from that board-operated facility and terminates the duties and responsibilities of the board and the facility staff with respect to the discharged individual. Once discharged, a former resident must reapply for admission to a Minnesota veterans home facility.

Subp. 2. **Types of discharge.** A resident must be discharged from the facility either voluntarily or involuntarily according to items A and B.

A. A discharge is voluntary if there is mutual consent between the resident, the resident's legal representative or spouse, if any, the resident's attending physician, and the administrator of the facility.

B. A discharge is involuntary if it is without mutual consent of the resident, the resident's legal representative who has the legal authority, or spouse, if any, the resident's attending physician, and the administrator of the facility or if it is contrary to the expressed preference of the resident.

Subp. 3. **Grounds for discharge.** Discharge procedures must be instituted with regard to a resident if one of the following grounds or circumstances exist:

A. the resident or resident's legal representative fails or refuses to comply with the resident's admissions agreement;

B. the resident or resident's legal representative makes a written request for discharge of the resident;

C. the board-operated facility is unable to meet the care needs of the resident, as determined by the utilization review committee according to part 9050.0070 [Emergency], subpart 3 or 4;

D. the resident is absent from the facility for 96 consecutive hours or more without notice; or

E. the resident or resident's legal representative or spouse:

(1) falsifies or fraudulently represents information on income disclosure and verification forms required in parts 9050.0800 to 9050.0900 [Emergency];

(2) refuses to provide information or releases; or

(3) falsifies or fraudulently represents information relating to criteria in part 9050.0070 [Emergency], subpart 3 or 4, or issues in part 9050.0060 [Emergency], subpart 4.

Subp. 4. **Notice of involuntary discharge.** Unless the time for the notice is extended by the administrator of a board-operated facility or a situation arises that is outside the facility's control, such as a utilization review, a change in the resident's medical or treatment program, the resident's own or another resident's welfare, or nonpayment of stay, a resident must be notified in writing by the administrator of the facility of its intent to proceed with involuntary discharge of the resident at least 30 days before the scheduled date of discharge as provided by Minnesota Statutes, section 144.651, subdivision 29.

Subp. 5. **Contents of notice.** The notice must:

A. state that the discharge is involuntary;

B. state the grounds for the discharge as specified in subpart 3; and

C. contain documentation supporting the grounds alleged for the discharge.

Subp. 6. **Exceptions.** A resident absent from a board-operated facility for 96 consecutive hours without notice is subject to immediate institution of involuntary discharge procedures. A resident's discharge under this subpart is subject to a reinstatement hearing if the resident reports his or her whereabouts to the administrator of the facility and requests the reinstatement hearing within 30 days from the resident's departure from the facility without notice.

9050.0210 [Emergency] VOLUNTARY DISCHARGE PROCEDURES.

Subpart 1. **When used.** Voluntary discharge procedures must be used when a discharge from the board-operated facility is voluntary as in part 9050.0200 [Emergency], subpart 2, item A, or following review of an appeal from an involuntary discharge order when a court has issued an enforcement order or the resident has agreed to comply with the order for discharge.

Subp. 2. **Responsibilities of facility staff.** The board shall ensure that the tasks in items A to E are completed in effecting discharge under this part.

A. The discharge component of the resident's individual care plan must be updated and implemented after the resident has had an opportunity to confer with a social worker about the plan as described in subitems (1) and (2).

(1) A discharge conference must be arranged by the social worker with the resident, the resident's family with the resident's consent, the social worker, and multidisciplinary staff. The social worker shall make a referral of the resident to social or health care services identified in the resident's individual care plan as necessary for the resident's discharge.

(2) The board shall ensure that adequate arrangements exist to meet the resident's financial and other needs following the resident's discharge.

B. The attending physician and board-operated facility multidisciplinary staff shall complete the resident's medical record. The resident's medical record must be retained as specified in parts 4655.3200 to 4655.3600.

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C. The resident's medications must be disposed of by a pharmacist according to parts 4655.7600 to 4655.7860.

D. The board-operated facility staff shall release certified copies of the resident's record or the portions specifically requested to a requesting party subject to the requirements of the Minnesota Data Practices Act, Minnesota Statutes, chapter 13. The requesting party shall pay the actual cost of photocopying records. To release a record or information regarding a resident, the resident must sign a form that includes the:

- (1) resident's name;
- (2) date;
- (3) specific nature of information to be released;
- (4) names of persons authorized to give information;
- (5) names of persons to whom information is given;
- (6) description of information to be released; and
- (7) date the authorization expires.

A separate form is required for each release. The period of validity of an authorization may not exceed one year.

E. At the time of discharge, a description of the place and circumstances of discharge must be documented in the resident's record.

9050.0220 [Emergency] INVOLUNTARY DISCHARGE PROCEDURES.

Subpart 1. **Generally, recommendations.** Involuntary discharge for a reason specified in part 9050.0200 [Emergency], subpart 3, items C or D, must be based on the recommendation of the utilization review committee. Involuntary discharge under part 9050.0200 [Emergency], subpart 3, item A or E, must be based on the recommendation of the facility financial staff or social services staff.

Subp. 2. **Initial notice, review of recommendation.** An initial notice for involuntary discharge must be issued by the administrator of the board-operated facility if, after review of the recommendations and documentation from the utilization review committee or finance department, the administrator agrees with the recommendations.

Subp. 3. **Reconsideration.** A resident or the resident's legal representative may request a reconsideration of the initial notice of involuntary discharge. The request must be made in writing within ten days of receipt of the initial notice of involuntary discharge. Reconsideration must be before the administrator of the board-operated facility under the procedures in subpart 4.

Subp. 4. **Reconsideration procedures, scheduling, representation.**

A. A resident may be represented at a reconsideration under this part by an attorney, the resident, an advocate from the Office of the Ombudsman for Older Minnesotans, or other person of the resident's own choosing.

B. A resident and the resident's representative may question witnesses and present reasons why the resident should not be discharged.

C. The administrator shall record the proceedings electronically or stenographically. The cost must be borne by the facility.

D. The time for the reconsideration proceeding must be set by the administrator. The time may be extended for the resident for good cause shown. For purposes of this item, good cause exists when a resident cannot attend because of:

- (1) illness or injury of the resident;
 - (2) illness, injury, or death of a member of the resident's family that requires the resident's presence during the time the review is scheduled;
 - (3) an inability to obtain necessary assistance;
 - (4) employment, school, or employment and training service obligations that are scheduled during the reconsideration and that cannot be changed to allow the resident's participation;
 - (5) a judicial proceeding that requires the resident's presence in court during the hours when the reconsideration is scheduled;
- or
- (6) a nonmedical emergency that requires the resident's presence at a different location during the hours when the reconsideration is scheduled. "Emergency" under this subitem means a sudden unexpected occurrence or situation of a serious or urgent nature that requires immediate action.

Subp. 5. **Administrator's decision and preliminary order.** The administrator, after the reconsideration proceeding and on review of the record, shall review the question of discharge and issue a preliminary order supporting or reversing the initial involuntary discharge notice and state the reasons for the involuntary discharge.

Subp. 6. **Appeals process.** An applicant or resident, or legal representative, may appeal a discharge or transfer order. Appeals must be in accordance with contested case procedures under the Administrative Procedure Act, Minnesota Statutes, sections 14.48 to 14.56, until rules are adopted under Minnesota Statutes, section 144A.135, by the commissioner of health. Unless otherwise decided by the administrator of the board-operated facility, a final discharge order issued by the administrator following the Office of Administrative Hearings' review remains in effect pending any appeal according to Minnesota Statutes, section 14.65.

Nothing in this part may be construed to limit, change, or restrict other appeal or review procedures available to a resident under law.

9050.0230 [Emergency] ENFORCEMENT OF FINAL DISCHARGE ORDER.

A final discharge order is the order issued by the administrator of a board-operated facility following review of the preliminary discharge order under Minnesota Statutes, chapter 14. A final discharge order is the final agency action. When a resident refuses to comply with the terms of a final discharge order issued following review under Minnesota Statutes, chapter 14, and final agency action, the administrator may seek enforcement of the final discharge order by applying to the district court for an order enforcing the administrative order of discharge. Pursuant to Minnesota Statutes, section 198.045, the district court may order the sheriff of the county in which the board-operated facility is located to remove the resident from the board-operated facility and authorize the administrator to remove the resident's property and hold it until it can be returned to the former resident. Upon issuance of the court order, the procedures in part 9050.0210 [Emergency] regarding voluntary discharge must be followed, to the extent possible, to effect the discharge.

9050.0300 [Emergency] COMPLIANCE REVIEW.

Subpart 1. **Generally.** A board-operated facility must have and implement a compliance review procedure to review a resident's compliance with an individual care plan and facility emergency rules as specified in chapter 9050. The review must determine what action, if any, is to be taken to ensure the resident's compliance and whether the board-operated facility is able to care for the resident according to the criteria in part 9050.0070 [Emergency], subparts 3 and 4.

Subp. 2. **Requirements of procedure.** A compliance review procedure must provide for:

- A. the resident's right to participation of a resident advocate in the compliance review;
- B. notice to the resident of each problem or infraction;
- C. instruction for the resident regarding procedures or options for compliance;
- D. opportunity for participation of the resident or the resident's legal representative, social workers, and, with the resident's consent, the resident's family members;
- E. differentiated reviews and actions consistent with the frequency and severity of the resident's compliance problem;
- F. notice to the resident that repeated noncompliance may result in imposition of disciplinary options or restrictions that the utilization review committee finds necessary to provide for the resident's care needs according to part 9050.0070 [Emergency], subpart 3 or 4, and the resident's individual care plan;
- G. an accelerated review procedure to be used when the severity of the resident's noncompliance endangers the health and safety of the resident, other residents, or staff members of the board-operated facility;
- H. consideration of the resident's ability to comprehend and cooperate with parts 9050.0010 to 9050.0900 [Emergency] or with the individual care plan provisions; and
- I. notice to the resident that the ultimate consequence of noncompliance is a recommendation for discharge, if the noncompliance results in the board-operated facility's inability to meet the care needs of the resident according to part 9050.0070 [Emergency], subparts 3 and 4.

Subp. 3. **Conduct of review; responsibilities.** Compliance review must be conducted by the utilization review committee or subcommittee. Decisions as to the use of the review procedure, disciplinary options, or recommendations for discharge must be by majority vote. Decisions of the committee or subcommittee at each level or occasion of review must be based on the facility's ability to care for the resident according to part 9050.0070 [Emergency], subpart 3 or 4.

9050.0400 [Emergency] UTILIZATION REVIEW COMMITTEE.

Subpart 1. **Appointment and duties.** The administrator of a facility shall appoint a utilization review committee composed of persons as specified in subpart 2 who are employed by or under contract to the board-operated facility or the board. The committee shall have the duties specified in subpart 3.

Subp. 2. **Composition.** The utilization review committee consists of two physicians and at least one of each of the following professionals: a registered nurse, the administrator or the administrator's designee, a social worker, and a medical records technician. Additional committee members may include any of the following staff members as indicated by the diagnosis or diagnoses of the

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resident to be reviewed: a chemical dependency counselor, a mental health practitioner or mental health professional, or a dietician. The administrator or the administrator's designee, one other committee member, and at least two physicians must be in attendance to hold a meeting and to take action.

Subp. 3. **Duties.** The duties of the utilization review committee are to:

A. review the necessity and appropriateness of admissions, bed holds, transfers, and the need for discharge of all residents according to the United States Department of Veterans Affairs, chapter 9050, and Department of Health nursing and boarding care criteria specified in parts 4655.0400, 4655.0500, 4655.0700, and 4655.1500;

B. recommend to the administrator of the board-operated facility criteria for use in admitting residents for care plan reviews and discharge;

C. perform medical care evaluation studies at the request of the board and review assessments of residents;

D. provide reports and recommendations to the administrators and the board;

E. provide information as required to appropriate state and federal agencies and fiscal agents, including the United States Department of Veterans Affairs, Minnesota Department of Veterans Affairs, Minnesota Department of Health, Minnesota Department of Human Services, Minnesota Department of Administration, and Legislative Auditor;

F. periodically evaluate the Minnesota veterans homes utilization review procedures and recommend ways to correct deficiencies in the review procedures; and

G. review each resident's case record annually to:

(1) determine the facility's ability to meet the resident's care needs;

(2) assess the resident's willingness to cooperate with an individual care plan and obey facility emergency rules in chapter 9050;

(3) assess the appropriateness of the resident's continued stay; and

(4) develop and update the discharge component of the individual care plan for each resident, as appropriate.

Subp. 4. **Decisions.** Decisions must be by majority vote of the members of the utilization review committee following review at a committee meeting. Decisions about residents must be based on the facility's ability to meet the care needs of the resident or applicant according to part 9050.0070 [Emergency], subpart 3 or 4.

9050.0500 [Emergency] COST OF CARE; BASIS FOR MAINTENANCE CHARGE; BILLING.

Subpart 1. **Annual calculation; effective date; notice of change.** The cost of care used to determine the maintenance charge of a resident must be calculated annually under this part. A change in the cost of care becomes effective on July 1 of the rate year following the reporting year used to calculate the cost of care. The cost of care must remain fixed for that rate year. A notice of change in the cost of care must be provided to all residents and their legal representatives 30 days before its effective date.

Subp. 2. **Costs to be included in calculating cost of care.** The calculation of the cost of care includes both the direct and indirect costs of providing resident care. These costs must be compiled separately for each board-operated facility on the basis of whether nursing home or boarding care services are provided.

A. Direct costs include the costs of staff care directly attributable to boarding care or nursing home services that directly benefit the resident. An example of a direct cost is nursing service.

B. Indirect costs include costs incurred for common or joint purposes that are identified with more than one level of care and are for services that are provided on behalf of a resident of the facility or facilities. Examples are the costs of housekeeping, laundry, administration, and food services. Indirect costs must be reduced by the amount of receipts received by the board-operated facility for lease or rent payments, meals, and other common purpose sources.

C. Calculation of the cost of care does not include the expenses of the board and capital expenditures or revenues, including federal matching funds and designated contributions, and resident fund accounts as specified in parts 4655.4120 to 4655.4170.

Subp. 3. **Method of calculating average daily per resident cost of care.** The cost of care for a nursing home or boarding care home must be calculated as follows:

A. total the direct costs for a particular campus or board-operated facility for a reporting year;

B. divide item A by 365;

C. divide item B by the average number of residents in nursing home care or boarding care for a reporting year;

D. total the indirect costs for a particular campus or board-operated facility for a reporting year;

E. divide item D by 365;

- F. divide item E by the average number of residents at a particular campus or board-operated facility for a reporting year; and
G. total items C and F. The result is the average daily per resident cost of care for nursing home care or boarding care.

Subp. 4. **Cost of care related to maintenance charge.** The cost of care as calculated in subpart 3 must be used to determine the maintenance charge to the resident. The maintenance charge must be based on the resident's ability to pay. The maintenance charge must be calculated as specified in part 9050.0560 [Emergency]. The maintenance charge must be reviewed and adjusted as specified in parts 9050.0560 [Emergency] and 9050.0580 [Emergency]. Additionally, when applicable, the resident's maintenance charge must be reduced by the amount of the per diem reimbursement paid on behalf of a resident by the United States Department of Veterans Affairs.

Subp. 5. **Effect of bed hold on maintenance charges.** A resident who pays a maintenance charge, regardless of amount, shall continue to pay that same maintenance charge during a bed hold as specified in part 9050.0150 [Emergency], subpart 5.

Subp. 6. **Billing.** Billing for maintenance charges must be as specified in items A to F.

A. The maintenance charge must be billed monthly.

B. The monthly billing must be the resident's chargeable income as calculated in part 9050.0755 [Emergency], up to the full cost of care.

C. The maintenance charge must be billed to the address designated by the resident or the resident's legal representative on the resident's application for admission.

D. A billing for one month's service must be issued no later than the tenth of the month following the month in which the service was provided.

E. A resident must be charged for the day of admission but not for the day of discharge. For purposes of this item, one day is the 24-hour period ending at midnight.

F. A billing must state the date by which payment must be received.

9050.0510 [Emergency] MAINTENANCE CHARGE; ADDITIONAL SERVICES; VETERAN EXCLUSIVE SERVICES.

Subpart 1. **Additional services at resident's own expense.** In addition to the services in the resident's admissions agreement, a resident may use additional health care services at the resident's own expense if the health care services do not exceed the level of care for which the facility is licensed and if the service provider complies with documentation requirements of the board-operated facility. A resident who chooses to use additional health care services at the resident's own expense shall continue to pay the maintenance charge determined under part 9050.0530 [Emergency].

Subp. 2. **Veteran exclusive services.** "Veteran exclusive services" are medical benefits or services provided or sponsored by the United States Department of Veterans Affairs exclusively for veterans. Examples include the United States Department of Veterans Affairs physician services and laboratory services. Nonveteran residents are not entitled to veteran exclusive medical benefits or services. Payment of the maintenance charge does not make a nonveteran eligible for veteran exclusive benefits or services provided at the board-operated facility. Nonveteran residents shall obtain necessary health care services comparable to veteran exclusive services at the resident's expense. The services must be within the confines of the level of care for which the facility is licensed.

9050.0520 [Emergency] MAINTENANCE CHARGE; DELINQUENT ACCOUNTS; INTEREST; DISCHARGE.

Subpart 1. **Interest on delinquent accounts.** A resident's account is considered delinquent if a resident willfully refuses or fails to pay the bill by the due date. Applicants or residents must be notified if payment has not been received by the due date printed on the bill. Interest must be charged on all delinquent accounts, effective the date the bill was due, as provided in Minnesota Statutes, section 334.01. For purposes of this subpart, "willful refusal or failure to pay" means a situation in which:

A. the decision of whether to pay is completely within the control of the resident or the resident's legal representative; or

B. a resident or the resident's legal representative has the ability or resources to pay the maintenance charge and fails to pay.

Subp. 2. **Discharge for nonpayment.** Discharge proceedings must be instituted under part 9050.0200 [Emergency], subpart 2, item A, when an account is delinquent. Discharge proceedings for nonpayment must be stopped when full payment, including accrued interest, is made.

9050.0530 [Emergency] RATES AND CHARGES; AGREEMENT AT TIME OF ADMISSION.

If a person is admitted under Minnesota Statutes, section 198.03, a written admissions agreement must be made between the board or its designated representative and the resident or the resident's legal representative about maintenance charges for care and services, obligations concerning payment of the resident's maintenance charge, and the board's refund policy.

9050.0540 [Emergency] NO UNPAID ABSENCE.

Residents are not excused from payment of the maintenance charge when they are absent from the board-operated facility. A resident must continue to pay the maintenance charge determined under part 9050.0560 [Emergency] during a period of absence.

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9050.0550 [Emergency] MAINTENANCE CHARGE; RESOURCES CONSIDERED.

Subpart 1. **In general.** The applicant's or resident's ability to pay must be determined from insurance and other benefits, value of property owned, and income. The applicant's or resident's property must be used first to pay the maintenance charge. The applicant's or resident's income must be used after the applicant's or resident's property is reduced to the limits in subpart 3 and part 9050.0600 [Emergency] to pay the maintenance charge.

Subp. 2. **Insurance benefits.** When the investigation of the applicant's or resident's financial status discloses eligibility for insurance benefits, the applicant or resident must be determined to be able to pay the cost of care provided to the full extent of insurance benefits available. When the insurance benefits pay less than the full cost of care, the ability of the applicant or resident to pay the remaining part must be determined from the applicant's or resident's nonexcluded property and income.

Subp. 3. **Property.** If the applicant or resident owns property in excess of \$3,000 that is not excluded under part 9050.0600 [Emergency], subparts 2 and 3, the applicant or resident must be determined able to pay the full cost of care according to part 9050.0755 [Emergency]. The person shall pay the full cost of care until the property is reduced to the limits in parts 9050.0560 [Emergency] and 9050.0600 [Emergency].

Subp. 4. **Chargeable income.** The applicant's or resident's chargeable income is the income remaining after deductions from gross income have been made according to part 9050.0720 [Emergency] and after deductions from net income have been made according to part 9050.0755 [Emergency]. The applicant's or resident's entire chargeable income must be considered available to pay the cost of care. If an applicant or resident qualifies for governmental benefits or reimbursements or other benefits, the benefits must be included as income in determining the maintenance charge payable by or on behalf of a resident, unless an assignment of benefits naming the board-operated facility as representative payee has been executed in favor of the board-operated facility.

Subp. 5. **Property and income of spouse.** Property and income of the spouse of the applicant or resident must not be considered an available resource for payment of a maintenance charge.

9050.0560 [Emergency] MAINTENANCE CHARGE DETERMINATION; TIME AND CALCULATION METHOD.

Subpart 1. **Time of determination.** The amount of the maintenance charge must be determined if:

- A. a person is admitted to a board-operated facility and at least annually after admission;
- B. there is a substantial change in the applicant's or resident's financial status or the financial status of the spouse of the applicant or resident;
- C. a change in the applicant's or resident's living status requires recalculation of the benefits provided by the United States Department of Veterans Affairs or other source;
- D. the resident is transferred from one level of care to another for 30 days or more; and
- E. the resident is being discharged.

For purposes of the subpart, "substantial change" in financial status means a change that increases the person's net worth above the \$3,000 limit or a change in the person's monthly income. Substantial change must be reported to the facility financial officer ten days after the applicant or resident, legal representative, or spouse of the applicant or resident learns of the change.

Subp. 2. **Method of calculation.** The amount that a resident must pay, or have paid on the resident's behalf, as a maintenance charge must be determined as specified in items A and B.

A. If an applicant's or residents net worth exceeds \$3,000, the person's maintenance charge must be the full cost of care for the applicant's or resident's level of care less the United States Department of Veterans Affairs per diem reimbursement, when applicable, until the applicant's or resident's net worth is reduced to \$2,500.

B. If the applicant's or resident's net worth is less than \$2,500, the applicant's or resident's income must be considered in calculating the person's maintenance charge. The person's monthly maintenance charge is the person's total chargeable income, up to the full cost of care. The person's chargeable income must be calculated according to part 9050.0755 [Emergency].

9050.0570 [Emergency] MAINTENANCE CHARGE; NOTICE AFTER FINANCIAL STATUS REVIEW.

The facility financial staff shall notify the applicant or resident, legal representative of the applicant or resident, or spouse of the applicant or resident, of any change in the applicant's or resident's maintenance charge following a financial status review. The notice must include information about the right to a review of the maintenance charge under part 9050.0580 [Emergency].

9050.0580 [Emergency] REVIEW OF MAINTENANCE CHARGE DETERMINATION.

An applicant or resident or legal representative may request that the administrator of a board-operated facility reconsider a maintenance charge determination. The request must be in writing, directed to the administrator. The administrator shall, within ten days of receipt of the request, conduct a review of the maintenance charge determination. The review must be in the same format and time

frames as the procedures under part 9050.0220 [Emergency]. The administrator's determination is final upon receipt by the applicant or resident, or legal representative, and is the final agency action.

9050.0590 [Emergency] MAINTENANCE CHARGE; REFUND.

If an applicant or resident who has paid, or on whose behalf payment has been made of, the maintenance charge for a billing month, is discharged from a board-operated facility before the end of the month for which payment has been made, the applicant or resident is entitled to a refund. The amount of the refund to which an applicant or resident, or legal representative, is entitled must be calculated by prorating the monthly maintenance charge by the number of unused days.

9050.0600 [Emergency] PROPERTY LIMITATIONS.

Subpart 1. **General provisions of property ownership.** The equity value of all nonexcluded real and personal property owned by an applicant or resident must not exceed \$3,000. The facility financial staff must use the equity value of legally available real and personal property, except property excluded in subpart 2 or 3, to determine the resources available to or on behalf of an applicant or resident.

A. If real or personal property is jointly owned by two or more persons, the facility financial staff shall assume that each person owns an equal share. When the owners document greater or smaller ownership, the facility financial staff shall use that greater or smaller share to determine the equity value held by or on behalf of an applicant or resident. Other types of ownership, such as a life estate, must be evaluated according to law.

B. Real or personal property owned by or on behalf of an applicant or resident is presumed legally available unless the applicant or resident documents that the property is not legally available to the applicant or resident. If real or personal property is not legally available, its equity must not be applied against the limits of subparts 2 and 3. Examples of property not available to a person are an estate that has not been probated, property owned together with one or more other people that the facility financial staff determines cannot be liquidated or reduced to cash through exercise of the applicant's or resident's legal rights, and property of an applicant or resident who is determined incompetent by a court and whose guardianship is pending. The facility financial staff shall consider as available property that a person has failed to make available for purposes of gaining admission to a board-operated facility or avoiding payment of the maintenance charge. An example of a person's failure to make property available occurs when the person refuses to accept a share of an inheritance.

C. Real or personal property transferred by an applicant or resident in violation of part 9050.0650 [Emergency] is presumed legally available.

D. The facility financial staff shall consider as available an individual retirement account, Keogh account, or other pension or deferred compensation plan account. The facility financial staff shall evaluate the accounts on the basis of the funds deposited in the account and the interest accrued on the funds less the penalty for early withdrawal.

E. The facility financial staff shall consider as available the proceeds that a person receives in a tort settlement, whether the settlement is entered into by the person or the person's guardian. If the settlement is received as a one-time payment, the facility financial staff shall treat it as a lump sum. If the settlement is structured to be paid over a period of time, the facility financial staff shall evaluate the property on the basis of the discounted net present value of all funds that will be deposited at any time in the future. In determining present value, an annual interest rate of six percent must be used. This item applies only to settlements entered into after the effective date of parts 9050.0010 to 9050.0900 [Emergency].

Subp. 2. **Real property limitations.** Real property owned by an applicant or resident must be excluded from consideration as an available resource, subject to the limitations in items A and B.

A. The facility financial staff shall exclude the homestead of an applicant or resident from consideration as a resource according to the provisions in subitems (1) to (4).

(1) The spouse of an applicant or resident or the dependent child or children of the applicant or resident, if any, must occupy the homestead.

(2) An applicant or resident or spouse of an applicant or resident who is purchasing real property through a contract for deed and using that property as a home is considered the owner of real property.

(3) The total amount of land that can be excluded under this subpart is limited as specified in Minnesota Statutes, section 510.02. Additional contiguous platted lots must be assessed as to their legal and actual availability according to subpart 1.

(4) When real property that has been used as a home by an applicant or resident, the spouse of an applicant or resident, or the dependent child or children of an applicant or resident is sold, the facility financial staff shall treat the proceeds from that sale as excluded property for a period of two years if the person intends to reinvest them in another home and maintains those proceeds, unused for other purposes, in a separate account. If the property is held jointly, any earnings that accrue on the sales proceeds before reinvestment or any excess proceeds not used for reinvestment must be treated as joint income or property and divided according to subpart 1, item A.

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B. Real property being sold on a contract for deed must be excluded if the net present value of the contract in combination with other property does not exceed the limitations in parts 9050.0560 [Emergency] and 9050.0600 [Emergency]. If the present value exceeds limitations, the contract must be sold. Proceeds from the sale must be treated as lump sum payments.

C. Real property that is rental property leased at a market rent and producing a net income must be excluded. If the property is sold, the proceeds must be treated as lump sum payments.

D. Real property on or in which the person operates a business that is anticipated to produce a net income must be excluded. If the property is sold, the proceeds must be treated as lump sum payments.

E. Real property that is not salable must be excluded. For purposes of this item, "not salable" means:

(1) two sources agree that the property is not salable due to a specified condition; or

(2) an actual sale attempt was made at a price not more than an estimate of the highest current market value obtained within six months of application for admission or since the last determination of the maintenance charge, but no offer to purchase was received.

For purposes of subitems (1) and (2), the source of information must be from the same geographic area as the property and knowledgeable about the value of the type of property offered for sale. For purposes of subitem (2), "an actual sale attempt" means the individual has listed the property with a licensed real estate broker or salesperson or, if the property is offered for sale by the owner, the owner has affixed to the property a readable sign that includes the address or phone number of the owner and the owner has advertised the property for sale in the official newspaper of the county, the newspaper of largest circulation in the county, or the local shopper. The minimum period of an actual sale attempt is 90 consecutive days.

F. Other real property must be excluded according to federal law, federal regulations, or state law.

Subp. 3. Other property limitations. The facility financial staff shall exclude the value of the following personal property:

A. one motor vehicle, for personal use;

B. the value of a prepaid burial account, burial plan, burial contract, or burial trust up to \$2,500 for persons who are residents of a board-operated facility when the investment is made, regardless of the amount invested or value, if made by the person before admission to a board-operated facility;

C. 50 percent of property owned jointly with a spouse;

D. household goods and furniture and personal effects, wearing apparel, and jewelry regularly used by the applicant or resident in day-to-day living;

E. the value of personal property needed to produce income, including tools, implements, farm animals and inventory, or capital and operating assets of a trade or business necessary to income production, and if the property is sold, the proceeds must be treated as lump sum payments; and

F. other personal property specifically excluded by federal law, federal regulation, or state law.

Subp. 4. Separate account for excluded funds. Funds excluded from consideration as an available resource by subpart 2 or 3 must be placed in an account separate from other funds to retain the exclusion. Upon application for admission and redetermination of a maintenance charge, the facility financial staff shall inform the person in writing of the requirement to place excluded funds in a separate account.

9050.0650 [Emergency] TRANSFERS OF PROPERTY.

Subpart 1. Generally. A person whose application for admission is pending or a current resident of a board-operated facility shall declare all transfers or sales of property within ten days of the transfer or sale. The value of property transferred or sold must be treated as an available resource for payment of the resident's maintenance charge. The value of the property transferred or sold that will be applied against the property limits in parts 9050.0560 [Emergency] and 9050.0600 [Emergency] is the market value of the property at the time of the sale or transfer less any encumbrances on the property. A transfer for purposes of preserving an estate for heirs is the same as a transfer for the purposes of establishing eligibility for admission to a board-operated facility or avoiding payment of a maintenance charge.

Subp. 2. Permitted transfers. Transfer or sale of property by or on behalf of an applicant or resident is permitted if the transfer or sale:

A. takes place more than 12 months before the person's admission to a board-operated facility;

B. is to the applicant's or resident's spouse or dependent child or children before the person's admission to a board-operated facility; or

C. is for market value with the proceeds available for payment toward the person's cost of care.

Subp. 3. **Fraudulent transfers.** A transfer or sale of property for less than market value within 12 months before admission or during the resident's stay in a board-operated facility, unless permitted under subpart 2, is presumed to be for the purpose of establishing or maintaining eligibility for admission to or continued residence in a board-operated facility or to avoid payment of the maintenance charge, unless the person furnishes convincing evidence to show that the transfer was for another purpose. Convincing evidence must include evidence that the person had no health or economic reasons to believe that nursing home or boarding care would be needed.

Subp. 4. **Loans of property.** An applicant or resident who lends property or on whose behalf property is loaned is considered to have transferred the property. The facility financial staff shall evaluate the transaction as a transfer of property under subparts 1 and 2. If the person receives adequate compensation for the loan or made the loan more than 12 months before the person's entrance into a board-operated facility, the facility financial staff shall honor the loan. Adequate compensation must be shown by a written loan agreement and receipt of payments according to the schedule in the agreement. If the loan is payable on demand, is due, or is otherwise negotiable, the property is presumed to be available to the applicant or resident. This presumption may be overcome by convincing evidence presented by the person that the loan will not be repaid. Interest payments made by the borrower to the person are considered income in the month received and an asset if retained. Principal payments made by the borrower to the person are considered as assets.

Subp. 5. **Unacceptable compensation for transfer of property.** Services are not considered acceptable compensation for the transfer or sale of property. For purposes of this subpart, "services" means labor performed by one person for another person or entity. Goods are not considered compensation unless supported by contemporaneous receipts or other evidence of expenditure. The purchase of paid up life insurance with no cash surrender value available to the person while the person is a resident or within 12 months before admission must be considered a transfer of an asset without acceptable compensation.

9050.0700 [Emergency] INCOME.

Subpart 1. **Evaluation of income.** The facility financial staff shall evaluate only income received by or on behalf of an applicant or resident when determining the maintenance charge payable by or on behalf of an applicant or resident. All payments, unless specifically excluded in subpart 3, must be counted as income. All income must be counted in the calendar month received. Income becomes property if retained after the month in which it is received, unless this part specifically states otherwise.

Subp. 2. **Availability of income.** Income must be attributed to the person who earns it or to the beneficiary of the income according to items A and B.

A. Funds distributed from a trust, whether from the principal holding or sale of trust property or from the interest and other earnings of the trust holdings, must be considered income when the income is legally available to or on behalf of an applicant or resident. Trusts are presumed legally available unless an applicant or resident can document by court order that the trust is not legally available. Trusts established other than by will by the person or the person's spouse under which the person may be the beneficiary of all or part of the payments from the trust and the distribution of the payments are determined by one or more trustees who may exercise discretion about the distribution to the person must be considered an available resource. This item applies regardless of whether the trust is irrevocable or is established for purposes other than to enable a person to qualify for admission to a board-operated facility or whether the discretion of the trustees is exercised. A trust fund established by the applicant or resident on behalf of another person within 12 months before admission or during the resident's stay in a board-operated facility must be considered transferred property under part 9050.0650 [Emergency].

B. Income from jointly owned property must be divided equally among the property owners unless the terms of ownership provide for a different distribution of equity.

Subp. 3. **Excluded income.** The facility financial staff shall exclude the following from calculation of the applicant's or resident's gross income:

A. earnings derived from participation in a work therapy program while the person is a participant in the program; and

B. 50 percent of income received by or paid to an applicant or resident and spouse, jointly.

9050.0710 [Emergency] CALCULATION OF GROSS INCOME.

The facility financial staff shall calculate gross income by adding together the amounts of income from sources in subparts 1 to 6.

Subpart 1. **Earned income.** Earned income is treated according to items A to C.

A. Sick leave and vacation payments for earned or accrued leave time are earned income.

B. Earned income received by persons employed on a contractual basis must be prorated over the period covered by the contract even when the payments are received over a lesser period of time.

C. The earned income tax credit, whether received from an employer or from the federal government, is earned income. An applicant or resident or spouse of an applicant or resident who is eligible for the earned income tax credit is required to apply for it. An applicant or resident may choose to apply for the credit either when the applicant or resident files an income tax return for the year in which the applicant or resident was eligible or in advance through the applicant's or resident's employer.

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Subp. 2. **Self-employment earnings.** The facility financial staff shall determine gross earned income from self-employment by totaling gross receipts. Gross receipts from self-employment must be budgeted in the month in which they are received. Expenses must be budgeted against gross receipts in the month in which those expenses are paid, except for items A to C.

A. The purchase cost of inventory items, including materials that are processed or manufactured, must be deducted as an expense at the time payment is received for the sale of those inventory items, processed materials, or manufactured items, regardless of when those costs are incurred or paid.

B. Expenses to cover employee federal insurance contributions act payments (FICA), employee tax withholding, sales tax withholding, employee worker compensation, business insurance, property rental, property taxes, and other costs that are commonly paid at least annually, but less often than monthly, must be prorated forward as deductions from gross receipts over the period they are intended to cover, beginning with the month in which payment for those items is made.

C. Gross receipts from self-employment may be prorated forward to equal the period of time over which the expenses were incurred except that gross receipts must not be prorated over a period that exceeds 12 months. This provision applies only when gross receipts are not received monthly but expenses are incurred on an ongoing monthly basis.

Subp. 3. **Farm income.** Farm income is the difference between gross receipts and operating expenses, subject to the provisions about self-employment income. Gross receipts include sales, rents, subsidies, soil conservation payments, production derived from livestock, and income from the sale of home-produced foods. Farm income must be annualized.

Subp. 4. **Rental income.** Income from rental property must be considered self-employment earnings when effort is expended by the owner to maintain or manage the property. When no effort is expended by the owner to maintain or manage the property, income from rental property must be considered unearned income. The facility financial staff shall total gross rental receipts to determine rental income. When an applicant or resident or spouse lives on the rental property, the facility financial staff shall divide the expenses for upkeep, taxes, insurance, utilities, and interest by the number of rooms to determine expense per room. The facility financial staff shall deduct expenses from rental income only for the number of rooms rented, not for rooms occupied by an applicant, resident, spouse, or household member.

Subp. 5. **Unearned income.** Unearned income is treated according to items A and B.

A. An amount must be deducted for costs necessary to secure payments of unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

B. Payments for illness or disability, except those payments described as earned income in part 9050.0710 [Emergency], subpart 1, item A, must be considered unearned income whether the premium payments are made wholly or in part by an employer or by an applicant or resident.

Subp. 6. **Lump sums.** Lump sums received by or on behalf of an applicant or resident must be considered earned income under subparts 1 to 4 or unearned income according to subpart 5. Lump sums are considered income in the month received and property if retained beyond the month of receipt, unless it is a contractual payment or retroactive payment of benefits.

9050.0720 [Emergency] CALCULATION OF NET INCOME; DEDUCTION FOR EMPLOYMENT EXPENSES.

Subpart 1. **Calculation method.** The facility financial staff shall calculate the net income of an applicant or resident by totaling all sources of gross income identified in part 9050.0710 [Emergency] and subtracting from gross income the applicable deductions allowed in subpart 2.

Subp. 2. **Deduction for employment expenses of applicant or resident.** The facility financial staff shall deduct the expenses in this part and parts 9050.0730 [Emergency] and 9050.0740 [Emergency] from gross income to determine net income. Deductible items include:

- A. state and federal income tax payments and withholdings consistent with the number of allowable exemptions;
- B. FICA payments;
- C. mandatory retirement fund payments;
- D. actual reasonable unreimbursed expenses of child care necessary to earn an income and paid to anyone other than a parent of the child;
- E. union dues;
- F. professional association dues if they are required to obtain or retain employment;
- G. health and dental insurance premiums whether mandatory or voluntary, if cost effective;
- H. cost of uniforms, tools, and equipment used on the job that are required to retain a job but are not furnished by the employer;
- I. cost of meals during employment hours for each day the person is employed;

J. public liability insurance premiums if they are required by the employer when an automobile is used in employment and the premiums are not paid by the employer;

K. court ordered support payments actually paid directly by the applicant or resident or withheld by the employer and transferred to a child or spouse not living with the applicant or resident or to a different former spouse of the applicant or resident;

L. voluntary support payments for dependent spouse or household according to part 9050.0750 [Emergency];

M. Medicare insurance payments;

N. Medicaid spend-down payments actually made according to part 9505.0065. subpart 11;

O. payment of documented debts, incurred prior to the person's admission to the board-operated facility, for which the person is legally responsible;

P. educational expenses actually paid by the person that are not covered by United States Department of Veterans Affairs educational expense benefits or other government or private scholarships, loans, or grants if there is demonstrated progress by the person towards completion of an educational program as part of the person's individual care plan;

Q. guardianship or conservatorship fees to the extent allowed by Minnesota law or by court order;

R. hospital and medical insurance premiums and supplemental health care premiums for the resident or applicant, if cost effective; and

S. cost of transportation related to employment. For the person who uses public transportation or takes part in a car pool, the facility financial staff shall deduct the fare or fee the person actually pays. For the person who uses a private motor vehicle, the facility financial staff shall deduct the amount per mile allowed on the most recent federal income tax return for actual miles driven for business purposes.

9050.0730 [Emergency] DEDUCTIONS FROM RENTAL INCOME.

In calculating net rental income, the facility financial staff shall deduct the rental property costs in items A to C from total rental receipts. The rental property costs must be prorated according to shares of ownership if the property is jointly owned. Money deducted from rental income under items A to C must be excluded as income in the month of receipt and as an asset if the funds are retained after the month of receipt. The retained funds must be placed in a separate account until used for:

A. upkeep and repairs, an annual amount equal to a maximum of two percent of the property's market value or a lesser amount as requested by the person;

B. real estate taxes, premiums for insurance on the property, and mortgage or contract for deed payments, payment of interest and principal; and

C. utilities specified as the owner's responsibility in the rental agreement.

9050.0740 [Emergency] DEDUCTIONS FROM SELF-EMPLOYMENT INCOME.

In calculating net self-employment income, the facility financial staff shall deduct from the total business receipts the costs of producing the income as allowed on the United States income tax schedule. However, capital expenditures, depreciation, and carryover losses claimed for business purposes on the most recent federal income tax return are not deductible business expenses. Net self-employment income, if greater than zero, must be added to other earned and unearned income to determine income for purposes of calculating the maintenance charge payable by or on behalf of an applicant or resident. Losses from self-employment income may not be deducted from other earned or unearned income.

9050.0750 [Emergency] DEDUCTION FOR VOLUNTARY SUPPORT OF DEPENDENT SPOUSE OR HOUSEHOLD.

Subpart 1. **Generally.** The facility financial staff shall deduct from the applicant's or resident's gross monthly income calculated under part 9050.0710 [Emergency] the amount necessary to meet the basic needs of the dependent spouse or household as calculated under this part. The applicant or resident or spouse of an applicant or resident who requests a deduction under this part must verify the monthly expenses of the dependent spouse or household that are not met by income or resources otherwise available to the dependent spouse or household.

Subp. 2. **Determination of spouse's monthly expenses.** A spouse's monthly expenses are the sum of:

A. monthly rent or house payment;

B. costs of supporting a dependent child or children residing with the spouse;

C. real estate taxes;

D. homeowner's or renter's insurance;

E. home maintenance costs;

Emergency Rules

F. electric and gas charges;

G. water and sewer charges;

H. solid waste removal charges;

I. telephone costs;

J. transportation costs, including costs of public transportation and costs of acquiring and maintaining a privately owned motor vehicle;

K. food;

L. clothing;

M. medical insurance for the spouse and the applicant's or resident's dependent child or children residing with the spouse;

N. medical expense payments;

O. personal needs of the spouse or dependent child or children;

P. payments for documented consumer debts incurred before the resident's admission to a board-operated facility for which the spouse is legally responsible; and

Q. support payments actually paid by the spouse to his or her former spouse or dependents who do not reside with him or her.

Subp. 3. **Calculation of amount of deduction.** The facility financial staff shall calculate the amount to be deducted from the applicant's or resident's monthly income for support of a dependent spouse or household as follows:

A. calculate the spouse's gross monthly income using the method for calculation of the applicant's or resident's gross income in part 9050.0710 [Emergency];

B. total the spouse's monthly expenses as determined under subpart 2;

C. subtract item B from item A; and

D. the amount by which item B exceeds item A is the amount allowed as a deduction for the dependent spouse or household.

9050.0755 [Emergency] CALCULATION OF CHARGEABLE INCOME OF APPLICANT OR RESIDENT.

The chargeable income of an applicant or resident is as follows:

A. total the person's gross income according to part 9050.0710 [Emergency];

B. subtract from the total gross income the applicable expenses or deductions in parts 9050.0720 to 9050.0750 [Emergency] to get the net income;

C. subtract from net income \$85 for personal needs;

D. multiply item C by 0.05 and deduct this amount from item C; and

E. the sum calculated in item D is the applicant's or resident's monthly chargeable income.

9050.0760 [Emergency] ANTICIPATING INCOME.

Income must be anticipated on a semiannual basis for all applicants or residents. Anticipated income must be determined using the method in items A to G that most accurately reflects the circumstances of the person.

A. If income is unvarying in amount and timing of receipt, an eligibility statement or wage stub must be used to verify the amount of the income. Examples of unvarying income are social security payments, pensions, unemployment compensation, and fixed salaries. For purposes of this item, "eligibility statement" means a document from a payer informing the person of eligibility for the amount of income.

B. Income that is expected to fluctuate slightly must be anticipated by using the income in the month of admission or redetermination. Monthly income must be calculated by multiplying:

(1) average weekly income by 4.3;

(2) average biweekly income by 2.16; or

(3) average semimonthly income by 2.

C. If income is expected to fluctuate but does not follow a seasonal pattern, monthly income is the average of monthly income received during the three most recent months.

D. If income fluctuates within a seasonal pattern but is reasonably stable from year to year, monthly income is the average of monthly income during the most recently completed calendar year.

E. Except as provided in item G, monthly farm income is the average of monthly income for the three most recent years during which the farm has been in operation.

F. Zero income must be used for any month in which no source of income is reasonably certain.

G. If the applicant or resident has had a recent financial change that makes a method in item C, D, or E an inaccurate predictor of future income, the facility financial staff shall make a reasonable estimate of future income and document the income basis used.

9050.0770 [Emergency] BENEFITS APPLICATION REQUIRED.

An applicant or resident or legal representative, if any, must apply for the maximum of every benefit for which the applicant or resident may be eligible that will increase the income of the applicant or resident. The board-operated facility staff shall provide an applicant or resident or legal representative information about possible available benefits or programs of assistance and assistance in making application for those benefits.

9050.0800 [Emergency] FINANCIAL INTERVIEW.

Subpart 1. **General conduct.** An applicant or resident must be present at an interview held to determine the applicant's or resident's ability to pay or to obtain financial information from the applicant or resident unless the applicant's or resident's presence is medically contraindicated by the attending physician of the applicant or resident. If the applicant's or resident's participation in the interview is medically contraindicated, the secondary source of information in part 9050.0810 [Emergency], subpart 2, must be present. The signed statement of the applicant's or resident's attending physician that attests to the medical contraindication must be placed in the applicant's or resident's financial information file.

Subp. 2. **Rights, duties, and consequences of interview.** Before conducting an applicant's or resident's interview to determine financial status or ability to pay, the interviewer shall:

A. inform the person that the person may choose an individual to assist in the determination process and any other contact with the board or its designated representative by authorizing that assistance in writing;

B. inform the person that the requested information will be used to determine ability to pay and to calculate the resident's maintenance charge;

C. inform the person that financial information obtained from or about the applicant or resident may not be released without the applicant's or resident's written consent, except pursuant to Minnesota Statutes, chapter 13, to specific state and federal agencies including the Minnesota Department of Veterans Affairs, Legislative Auditor, and United States Department of Veterans Affairs;

D. inform the person of the person's legal obligation to provide sufficient information, required documents, and proof necessary to determine ability to pay and the consequences of failure to do so;

E. inform the person that failure to supply the requested information must result in a determination that the person is able to pay the full cost of care and that if a person supplies false information the resident may be subject to discharge;

F. provide the person with an information pamphlet on the cost of care and review with the applicant or resident how the board determines the cost of care and how the amount an applicant or resident must pay toward that cost is determined;

G. inform the person of county, state, and federal financial programs that may assist in paying the cost of care and meeting personal and family needs;

H. provide the person with board-approved forms used to verify or investigate financial resources including:

(1) statement of income and net worth;

(2) statement of expenses;

(3) authorization to release information;

(4) maintenance rate affidavits; and

(5) other disclosure and verification forms the board reasonably requests to fully evaluate the applicant's or resident's financial status or the financial status of the applicant's or resident's legal representative or spouse, if any; and

I. request that the person complete and sign the authorization forms provided and provide verification or documentation of financial information.

9050.0810 [Emergency] SOURCES OF FINANCIAL INFORMATION.

Subpart 1. **Applicant or resident primary source.** An applicant or resident is the primary source of financial information to determine ability to pay except when the management of the applicant's or resident's financial affairs is in the hands of a legal representative. If the applicant or resident is not the source of financial information, the reason must be noted in the applicant's or resident's financial information file.

Emergency Rules

Subp. 2. **Secondary or alternate sources of information.** If an applicant or resident is not able to act on the applicant's or resident's own behalf, the person interviewed to obtain financial information must be, in order of priority, the applicant's or resident's legal representative or spouse, if any.

9050.0820 [Emergency] VERIFICATION OF FINANCIAL INFORMATION.

Subpart 1. **Verification required.** Information provided by the applicant or resident, spouse, or legal representative, if any, in the financial interview, on the signed financial information form, and a financial status review under part 9050.0560 [Emergency], subpart 1, must be verified by the facility financial staff.

Subp. 2. **Information to be verified.** The following items must be verified:

- A. income;
- B. insurance benefits;
- C. property;
- D. expenses or deductions claimed;
- E. number of dependents claimed;
- F. social security benefits;
- G. United States Department of Veterans Affairs benefits;
- H. pensions and annuities; and
- I. transfers of property according to part 9050.0650 [Emergency].

Subp. 3. **Time of verification.** The facility financial officer must request verification of the required information no earlier than 60 days before admission and no later than the date of admission or date of financial status review or other review of financial status as provided in part 9050.0560 [Emergency], subpart 1.

9050.0900 [Emergency] AUTHORIZATION FORMS.

Subpart 1. **Required.** An applicant or resident, spouse, or legal representative, if any, shall provide a separate signed authorization form for each verification that must be obtained from a third party.

Subp. 2. **Content.** The authorization form must contain the following information above the person's signature:

- A. person's name;
- B. date;
- C. information authorized;
- D. who is authorized to give the information;
- E. to whom the information is to be given;
- F. information's use; and
- G. date of expiration of the authorization.

A separate form must be signed and completed for each authorization of access. The period of the authorization must not exceed one year.

Subp. 3. **Refusal to sign authorization forms; consequences.** The applicant or resident, applicant's or resident's legal representative, or spouse must complete the following tasks within 30 days of the financial interview or other authorized request:

- A. complete and sign a financial information or authorization form;
- B. apply for insurance or other benefits for which an applicant, resident, or spouse of an applicant or resident may be eligible;
- C. complete assignment of benefits forms required by third-party payers;
- D. sign authorizations for release of medical records; and
- E. provide verification of information given on financial disclosure forms.

Failure to comply with items A to E results in a determination that the applicant or resident can pay the full cost of care. Providing false information relating to items A to E results in disqualification of an application for admission or in discharge of a resident under part 9050.0200 [Emergency], item E. The maintenance charge must be redetermined or the application for admission must be reinstated or the discharge proceeding discontinued if the applicant, resident, or spouse takes the required action.

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.

Administration Department

Building Code & Standards Division

Notice of Solicitation of Outside Information or Opinions Regarding the Proposed Adoption of the 1990 Edition of the National Electrical Code

NOTICE IS HEREBY GIVEN that the State Building Codes and Standards Division is seeking information or opinions from sources outside the agency in preparing to adopt the 1990 Edition of the National Electrical Code as adopted by National Fire Protection Association (NFPA) on May 18, 1989, and released by the STANDARDS COUNCIL July 14, 1989, and approved by the American National Standards Institute on August 7, 1989. The adoption of the rule is authorized by *Minnesota Statutes* section 16B.59 which permits the commissioner of administration to adopt and amend the State Building Code, and section 16B.64 which authorizes the commissioner of administration to hold all state hearings in regard to the State Building Code including rules proposed by another state agency.

The State Building Codes and Standards Division requests information and opinions concerning the subject matter of the rule. This rule is intended to replace the 1987 Edition of the National Electrical Code. The National Electrical Code is administered and enforced by the State Board of Electricity and certain municipalities. Interested persons or groups may submit data or views on the subject matter of concern in writing. Written statements should be addressed to Margaret White, Building Codes and Standards Division, 408 Metro Square Building, St. Paul, Minnesota 55101.

All statements of information and opinions shall be accepted until October 11, 1989. Any written material received by the State Building Codes and Standards Division shall become part of the rulemaking record to be submitted to the attorney general or the administrative law judge in the event the rule is adopted.

Department of Commerce

Notice to Solicit Outside Opinion Regarding Proposed Rules Regarding Currency Exchanges Including the Impact of Rules on Small Business

NOTICE IS HEREBY GIVEN that the Department of Commerce is seeking information or opinions from persons outside the agency to determine whether rules should be adopted in regard to the regulation of currency exchanges pursuant to *Minnesota Statutes*, Chapter 53A and if so what those rules should be. Promulgation of these Rules Regarding Currency Exchanges is authorized by *Minnesota Statutes*, sections 53A.12 and 45.023.

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

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

James G. Miller
Deputy Commissioner
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-2715

Oral statements will be received during regular business hours over the telephone at (612) 296-2715.

All statements of information and comment shall be accepted until October 15, 1989. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Notice to Solicit Outside Opinion Regarding Proposed Amendments to Franchise Rules Including the Impact of the Rules on Small Business

NOTICE IS HEREBY GIVEN that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to amend current rules relating to arbitration and to amend various franchise rules to reflect statutory changes. Promulgation of these rules is authorized by *Minnesota Statutes*, 45.023 and 80C.18.

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

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

Patricia L. Peterson
Department of Commerce
500 Metro Square Building
St. Paul, MN 55101
(612) 296-2284

Oral statements will be received during regular business hours over the telephone at 296-2284.

All statements of information and comment shall be accepted until September 25, 1989. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Notice to Solicit Outside Opinion Regarding Proposed Rules Regarding The Minnesota Insurance Fair Information Reporting Act Including the Impact of the Rules on Small Business

NOTICE IS HEREBY GIVEN that the Department of Commerce is seeking information or opinions from persons outside the agency to determine whether rules should be adopted in regard to the Minnesota Insurance Fair Information Reporting Act (Chapter 316, *Laws of Minnesota 1989*) and if so what those rules should be. Promulgation of these Minnesota Insurance Fair Information Reporting Act rules is authorized by *Minnesota Statutes*, section 72A.19, subd. 2, and 45.023.

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

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

Richard G. Gomsrud
Department Counsel
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-5689

Oral statements will be received during regular business hours over the telephone at (612) 296-5689.

All statements of information and comment shall be accepted until October 15, 1989. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Higher Education Facilities Authority

Notice of Public Hearing on Proposal to Issue Revenue Bonds

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Minnesota Higher Education Facilities Authority (the "Authority") with respect to a proposal to issue revenue bonds on behalf of Order of St. Benedict, a Minnesota non-profit corporation, as owner and on behalf of St. John's University, a Minnesota institution of higher education (the "College"), at the Authority's offices at Suite 450 Galtier Plaza, 175 East Fifth Street, St. Paul, Minnesota on September 27, 1989 at 2 o'clock p.m. Under the proposal, the Authority would issue its revenue bonds in an aggregate principal amount of up to approximately \$2,800, to provide financing for a Project generally described as the acquisition, construction, furnishing and equipping of an Art Building, including appurtenant site improvements, to be operated by the College and located on the campus of the College, the street address of which is St. John's University, Collegeville, Minnesota, 56321. At said time and place the Authority shall give all parties who appear an opportunity to express their views with respect to the proposal to undertake and finance the Project.

Dated: 11 September 1989

BY ORDER OF THE MINNESOTA HIGHER
EDUCATION FACILITIES AUTHORITY

Joseph E. LaBelle
Executive Director

Department of Human Services

Notice of Health Services Requiring Prior Authorization for MA/GAMC

As authorized by *Minnesota Statutes*, section 256B.02, subdivision 8(20), the following list includes all health services that require prior authorization as a condition of MA/GAMC reimbursement. The list is presented in five sections: dental services, vision care services, medical supplies and durable medical equipment, hearing aids, and all other services. The criteria used to develop this list are as follows:

1. The health service should be considered, under some circumstances, to be of questionable medical necessity.
2. Utilization of the health service needs monitoring in order to control the expenditure of the program funds.
3. Less costly, appropriate alternatives to the health service are generally available.
4. The health service is investigative.
5. The health service is newly developed or modified.
6. The health service is of a continuing nature and requires monitoring to prevent its continuation when it ceases to be beneficial.
7. The health service is comparable to a service provided in a skilled nursing facility or hospital but which is provided in a recipient's home.

*This list of health services requiring prior authorization is presently in effect.

I. DENTAL SERVICES

In addition to the specific services and procedures listed below, the following dental services always require prior authorization:

1. Hospitalization for dental treatment.
2. Surgical services, except emergencies and alveolectomies.
3. All removable prosthesis.

Please Note: It is essential that as you submit requests for prior authorization consideration, they are accompanied by adequate case information and appropriate diagnostic materials (e.g., x-rays, prosthesis information, teeth to be replaced, etc.)

Service Code Service Description

TESTS AND LABORATORY EXAMINATIONS

D0999 Unspecified diagnostic procedure, by report

DENTAL PROPHYLAXIS (PA required only if provided more than once in a six-month period)

D1110 Prophylaxis, adults
D1120 Prophylaxis, children

Official Notices

OTHER RESTORATIVE SERVICES

- D2960 Labial veneer (lamine)
D2999 Unspecified restorative procedure, by report

ROOT CANAL THERAPY (includes treatment plan, clinical procedures, and follow-up care)

Prior authorization is required for root canal therapy involving more than one molar only.

PERIAPICAL SERVICES

- D3460 Endodontic endosseous implant

OTHER ENDODONTIC PROCEDURES

- D3999 Unspecified endodontic procedure

SURGICAL SERVICES (including usual post-operative services)

- D4210 Gingivectomy or gingivoplasty—per quadrant
D4211 Gingivectomy or gingivoplasty—per tooth

PERIODONTICS

- D4220 Gingival curettage—by report
D4240 Gingival flap procedures, including root planning—per quadrant
D4260 Osseous surgery, including flap entry and closure—per quadrant
D4261 Osseous graft—single site including flap entry, closure, and donor site
D4262 Osseous grafts—multiple sites including flap entry, closure, and donor site
D4270 Pedicle soft tissue grafts
D4271 Free soft tissue grafts, including donor site
D4272 Apically repositioning flap procedure

ADJUNCTIVE PERIODONTAL SERVICES

- D4320 Provisional splinting, intracoronal
D4321 Provisional splinting, extracoronal
D4340 Periodontal scaling, and root planning—entire mouth
D4341 Periodontal scaling, and root planning—per quadrant

OTHER PERIODONTIC SERVICES

- D4910 Periodontal maintenance procedures following active therapy (periodontal prophylaxis)
D4999 Unspecified periodontal service, by report

PROSTHODONTICS, REMOVABLE

COMPLETE DENTURES

- D5110 Complete upper
D5120 Complete lower
D5130 Immediate upper
D5140 Immediate lower

PARTIAL DENTURES (including six months post-delivery care)

- D5211 Upper partial—acrylic base, including any conventional clasps and rests
D5212 Lower partial—acrylic base, including any conventional clasps and rests
D5213 Upper partial—predominantly base cast base with acrylic saddles, including any conventional clasps and rests
D5214 Lower partial—predominantly base cast base with acrylic saddles, including any conventional clasps and rests
D5215 Upper partial—high noble cast base with acrylic saddles, including any conventional clasps and rests
D5216 Lower partial—high noble cast base with acrylic saddles, including any conventional clasps and rests

OTHER PROSTHETIC SERVICES

- D5810 Denture—temporary complete upper
D5811 Denture—temporary complete lower
D5820 Denture—temporary (partial-stayplate) upper
D5821 Denture—temporary (partial-stayplate) lower
D5860 Overdenture complete, by report
D5861 Overdenture partial, by report

- D5862 Precision attachment, by report
D5899 Unspecified removable prosthodontic procedure, by report

IMPLANTS

- D5971 Simple implant
D5972 Complex implant
D5973 Subperiosteal implant
D5974 Endosseous implant, in the bone
D5976 Mandibular staple implant

OTHER FIXED PROSTHETIC SERVICES

- D6940 Stress breaker
D6950 Precision attachment

ORAL SURGERY EXTRACTION

- D7210 Surgical removal of erupted tooth, requires elevation of mucoperiosteal flap and removal of bone and/or section of tooth
X7216 Removal and/or excision supernumerary tooth, impacted
D7220 Removal of impacted tooth—soft bone
D7230 Removal of impacted tooth—partially bone
D7240 Removal of impacted tooth—completely bone
D7241 Removal of impacted tooth—completely bone, with unusual surgical complications

OTHER SURGICAL PROCEDURES

- D7271 Tooth implantation
D7272 Tooth transplantation
D7280 Surgical exposure of impacted or unerupted tooth for orthodontic reasons, including orthodontic attachments
D7281 Surgical exposure of impacted or unerupted tooth to aid eruption
D7290 Surgical repositioning of teeth
D7291 Transseptal fiberotomy

VESTIBULOPLASTY

- D7340 Vestibuloplasty—ridge extension (secondary epithelialization)
D7350 Vestibuloplasty—ridge extension, including soft tissue grafts, muscle re-attachments, revision of soft tissue attachment, and management of hypertrophied and hyperplastic tissue

EXCISION OF BONE TISSUE

- D7470 Removal of exostosis—mandible or maxilla
D7480 Partial ostectomy guttering or saucerization
D7490 Radical resection of mandible with bone graft

REDUCTION OF DISLOCATION AND MANAGEMENT OF OTHER TEMPOROMANDIBULAR JOINT DYSFUNCTIONS

- D7830 Manipulation under anesthesia
D7840 Condylectomy
D7850 Meniscectomy
D7860 Arthrotomy
D7870 Arthrocentesis
D7880 Occlusal orthotic appliance

OTHER ORAL SURGERY**REPAIR OF TRAUMATIC WOUNDS**

- D7920 Skin grafts wounds, identify defect covered, location and type of graft

OTHER REPAIR PROCEDURES

- D7940 Osteoplasty for orthognathic deformities
D7941 Osteotomy, ramus, closed
D7942 Osteotomy, ramus, open
D7943 Osteotomy, ramus, open with bone graft
D7944 Osteotomy, segmented or subapical per sextant or quadrant

Official Notices

D7945	Osteotomy, body of mandible
D7946	Maxilla, total (Le Fort I)
D7947	Maxilla, segmented (Le Fort I)
D7948	Osteoplasty facial bones for midface hypoplasia or retrusion (Le Fort II or III) without bone graft
D7949	Le Fort II or III with bone graft
D7950	Osseous, osteoperiosteal, periosteal, or cartilage graft of the mandible—autogenous or nonautogenous
D7955	Repair of maxillofacial soft and hard tissue defect
D7970	Excision of hyperplastic tissue, per arch
D7991	Coronoidectomy
D7992	Eminectomy
D7999	Unspecified oral surgical procedure, by report

ORTHODONTICS

MINOR TREATMENT FOR TOOTH GUIDANCE

D8110	Removable appliance therapy
D8120	Fixed or cemented appliance therapy

MINOR TREATMENT TO CONTROL HARMFUL HABITS

D8210	Removable appliance therapy
D8220	Fixed or cemented appliance therapy

INTERCEPTIVE ORTHODONTIC TREATMENT

D8360	Removable appliance therapy
D8370	Fixed appliance therapy

COMPREHENSIVE ORTHODONTIC TREATMENT

TREATMENT OF THE TRANSITIONAL DENTITION

D8460	Class I malocclusion
D8470	Class II malocclusion
D8480	Class III malocclusion

TREATMENT OF THE PERMANENT DENTITION

D8560	Class I malocclusion
D8570	Class II malocclusion
D8580	Class III malocclusion
D8650	Treatment of the atypical or extended skeletal case
D8750	Post-treatment stabilization
X0515	Orthodontic full case study
D8999	Unspecified orthodontic treatment

MISCELLANEOUS SERVICES

D1202	Topical application of fluoride, including prophylaxis, adult
D1204	Topical application of fluoride, excluding prophylaxis, adult
D9940	Occlusal guards, by report
D9941	Fabrication of athletic mouth guards
D9951	Occlusal adjustment, limited
D9952	Occlusal adjustment, complete
D9999	Unspecified adjunctive procedure, by report

II. VISION CARE SERVICES

In addition to the codes specified below, all noncontract eyeglasses, lenses, and frames require prior authorization.

CONTACT LENS TREATMENT SERVICES

92070	Fitting of contact lens for treatment of disease including supply of lens
92310	Prescription of optical and physical characteristics of and fitting of contact lens, with medical supervision of adaptation; corneal lens, both eyes, except for aphakia
92325	Modification of contact lens
92326	Replacement of contact lens

OPHTHALMIC TREATMENT SERVICES (PA required if the recipient utilized any service under this heading in the past 24 months)

- 92004 Comprehensive service, new patient
- 92014 Comprehensive service, established patient
- 92340 Fitting of spectacles, except for aphakia; monofocal
- 92341 bifocal
- 92342 multifocal, other than bifocal
- 92352 Treatment with spectacles for aphakia; monofocal
- 92353 multifocal
- 92358 Prosthesis service for aphakia; temporary

LOW VISION TREATMENT SERVICES

- 92354 Treatment with spectacle mounted low vision aid; single-element system
- 92355 Telescopic or other compound lens system

VISION THERAPY SERVICES

- 92065 Orthoptic and/or pleoptic training

PROSTHETIC EYE SERVICES

- 92330 Prescription fitting, and supply of ocular prosthesis (artificial eye), with medical supervision of adaptation
- 92335 Prescription of ocular prosthesis (artificial eye) and direction of fitting and supply by independent technician, with medical supervision of adaptation

OTHER SPECIALIZED SERVICES

- 92285 External ocular photography with medical diagnostic evaluation for documentation of medical progress
- 92354 Fitting of spectacle mounted low vision aid; single element system telescopic or other compound lens system
- 92390 Supply of spectacles, except prosthesis for aphakia and low vision aids
- 92391 Supply of contact lenses, except prosthesis for aphakia
- 92392 Supply of low vision aids
- 92393 Supply of ocular prosthesis (artificial eye)

MATERIAL CODES (exceptional cases only)

- V2500 Contact lens, PMMA, spherical, per lens
- V2501 Contact lens, PMMA, toric or prism ballast, per lens
- V2502 Contact lens, PMMA, bifocal, per lens
- V2503 Contact lens, PMMA, color vision deficiency, per lens
- V2510 Contact lens, gas permeable, spherical, per lens
- V2511 Contact lens, gas permeable, toric prism ballast, per lens
- V2512 Contact lens, gas permeable, bifocal, per lens
- V2513 Contact lens, gas permeable, extended wear, per lens
- V2520 Contact lens hydrophilic, spherical, per lens
- V2521 Contact lens hydrophilic, toric or prism ballast, per lens
- V2522 Contact lens hydrophilic, bifocal, per lens
- V2523 Contact lens hydrophilic, extended wear, per lens
- V2530 Contact lens, scleral, per lens (for contact lens modification, see 92325)
- V2599 Contact lens, not otherwise classified
- V2600 Hand held low vision aids and other nonspectacle mounted aids
- V2610 Single lens spectacle mounted low vision aids
- V2615 Telescopic and other compound lens system, including distance vision telescopic, near vision telescopes and compound microscopic lens system
- V2629 Prosthetic eye, not otherwise classified
- V2718 Press-on lens, Fresnell prism, per lens
- V2743 Tint other than rose 1 or 2
- V2744 Tint, photochromic
- V2755 U-V lens

III. MEDICAL SUPPLIES AND DURABLE MEDICAL EQUIPMENT, INCLUDING PROSTHETIC AND ORTHOTIC ITEMS

In addition to the specific supplies and equipment listed below, providers must obtain prior authorization for items in the following general categories:

1. Durable medical equipment when the purchase or projected cumulative rental cost exceeds \$350, except oxygen supplies rental.
2. All wheelchairs and wheelchair accessories.
3. Nondurable medical supplies when the cost exceeds \$250 per month, except for home health agencies which are excluded from this requirement.
4. Prostheses when the purchase or projected cumulative rental cost exceeds \$2,000, and orthoses when the purchase or projected cumulative rental cost exceeds \$2,000.
5. Repairs to durable medical equipment, prostheses, and orthoses when the cost exceeds \$300.
6. Maintenance of durable medical equipment.
7. Any individual item for which a specific HCPCS code has not been assigned, e.g., E1399 (over \$25) or any other HCPCS code ending in "99".
8. Adaptations to communication and locomotion devices (durable medical equipment). Use the transaction code "xx" with the applicable HCPCS code.
9. All hospital beds and mattresses.

The following items require Prior Authorization

<u>Service Code</u>	<u>Service Description</u>
B4150*1	Enteral formulae: Category I: semi-synthetic, Intact protein/protein isolates (e.g., Enrich, Ensure, Ensure HN, Ensure powder, Isocal, Lonalac powder, meritene, meritene powder, osmolite, osmolite HN, portagen powder, sustacal, Renu, sustagen powder, travasorb) 100 calories = 1 unit
B4151*1	Enteral formulae: Category I: Natural intact protein/protein isolates (e.g., compleat B, vitaneed, compleat B modified) 100 calories = 1 unit
B4152*1	Enteral formulae: Category II: (Intact protein/protein isolates) (calorically dense) (e.g., Magnacel, Isocal HCN, Sustacal HC, Ensure Plus, Ensure Plus HN) 100 calories = 1 unit
B4153*1	Enteral formulae: Category III: Hydrolyzed protein/amino acids (e.g., Criticare HN, Ensure HN, Vivonex T.E.N. (total enteral nutrition), Vivonex HN, Vital (Vital HN), Travasorb HN, Isotein HN, Precision HN, Precision Isotonic) 100 calories = 1 unit
B4154*1	Enteral formulae: Category IV: defined formula for special metabolic need, (e.g., Hepatic-aid, Travasorb hepatic, Travasorb MCT, Travasorb renal, Traum-aid, Tramacal, Aminaid) 100 calories = 1 unit
B5155*1	Enteral formulae: Category V: Mudoluar components (Protein, carbohydrates, fat) (e.g., Propac, gerval protein, Promix, Casec, Moducal, Controlyte, Polycose liquid or powder, Sumacal, Microlipds, MCT oil, nutri-source) 100 calories = 1 unit
B5156*1	Enteral formulae: Category VI: Standardized nutrients (Vivonex Std., Travasorb Std., and Precision LR and Tolorex) 100 calories = 1 unit
B9004	Parenteral nutrition infusion pump, portable
B9006	Parenteral nutrition infusion pump, stationary
B9998	Enteral supplies, not otherwise classified
E0160	Sitz type bath, portable, fits over commode seat
E0161	Sitz type bath, portable, over commode with faucet attachments
E0162	Sitz bath chair
E0183	Flotation pad for wheelchair
E0202	Phototherapy (bilirubin) light with photometer
E0205	Heat lamp, with stand, including bulb, or infrared element
E0236	Pump for water circulating pad
E0237	Water circulating heat pad with pump
E0607*2	Home blood glucose monitor
E0609	Blood glucose monitor with special features (e.g., voice synthesizers automatic timers, etc.)
E0620	Seat lift chair, motorized to assist patient in standing and sitting
E0621	Sling or seat, patient lift, canvas or nylon
E0625	Patient lift, kartop, bathtub or toilet

E0630	Patient lift, hydraulic, with seat or sling
E0635	Patient lift, electric, with seat or sling
E0650	Pneumatic compressor, nonsegmental home model, lymphedema pump
E0651	Pneumatic compressor, segmental home model, lymphedema pump, without calibrated gradient pressure
E0652	Pneumatic compressor, segmental home model, lymphedema pump, with calibrated gradient pressure
E0655	Pneumatic appliance for use with pneumatic compressor, half arm
E0660	Pneumatic appliance for use with pneumatic compressor, full leg
E0665	Pneumatic appliance for use with pneumatic compressor, full arm
E0666	Pneumatic appliance for use with pneumatic compressor, half leg
E0667	Pneumatic appliance for use with segmental pneumatic compressor, leg
E0668	Pneumatic appliance for use with segmental pneumatic compressor, arm
E0690	Ultraviolet cabinet, appropriate from home use
E0720*3	TENS, 2 lead, localized stimulation
E0730*3	TENS, 4 lead, larger area/multiple nerve stimulation
E0745	Neuromuscular stimulator, electronic shock unit, nonclinical model
E0747	Osteogenesis stimulator, noninvasive
E0781	External ambulatory infusion pump with administrative equipment
E1310	Whirlpool, nonportable built-in type
E1350	Repair or nonroutine service, e.g., breaking down sealed components requiring the skill of a technician
E1399	Durable medical equipment, not otherwise classified
E1510	Kidney dialysate delivery system, kidney machine, pump recirculating, air removal system, flowrate meter, power off, heater and temperature control with alarm, I.V. poles, pressure gauge, conc. container
E1520	Heparin infusion pump for dialysis
E1530	Air bubble detector for dialysis
E1540	Pressure alarm for dialysis
E1550	Portable conductivity meter for dialysis
E1560	Blood leak detector for dialysis
E1570	Adjustable chair for ESRD patients
E1575	Transducer protectors/fluid barriers, any size, each
E1580	Unipuncture control system for dialysis
E1590	Hemodialysis machine
E1592	Automatic intermittent peritoneal dialysis system
E1594	Cycler dialysis machine
E1600	Delivery and/or installation charges for renal dialysis equipment
E1610	Reverse osmosis water purification system
E1615	Deionizer water purification system
E1620	Blood pump for dialysis
E1625	Water softening system for dialysis
E1630	Reciprocating peritoneal dialysis system
E1632	Wearable artificial kidney
E1635	Compact portable travel hemodialyzer system
E1636	Sorbent cartridges, per case
E1640	Replacement components for hemodialysis and/or peritoneal dialysis machines that are owned or being purchased by the recipient
E1699	Dialysis equipment, unspecified, by report
L3230	Orthopedic footwear, custom shoes, depth inlay
L3250	Orthopedic footwear, custom molded shoes, removable inner molds, prosthetic shoe
Y4950	Enteral therapy (entire system)
Z0010	Augmentative communication device
Z0619	Home uterine monitoring device
Z0999	Replacement, supply or accessory necessary for effective use of medically necessary medical equipment owned by the recipient, by report

*1 Prior authorization is required only if these services are provided for treatment of a condition other than phenylketonuria, hyperlysinemia, maple syrup urine disease, or a combined allergy to human milk and soy formula; or if the cost for a nutritional product provided for treatment of phenylketonuria, hyperlysinemia, maple syrup urine disease, or a combined allergy to human milk and soy formula exceeds the nondurable medical supply limitation of \$250 per month. A 30-day supply of an enteral nutritional product

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may be provided without prior authorization to a recipient being discharged from a hospital to a residence other than a long-term care facility.

*2 Prior authorization only for individual who is not an insulin dependent diabetic.

*3 Prior authorization for rental beyond 3 month trial period, or for purchase.

IV. HEARING AIDS

In addition to the specific services listed below, services in the following categories require prior authorization:

1. Repairs to hearing aids when the cost of parts and labor exceeds \$100, or if a repair was made in the preceding 12 months.
2. Home visits performed by a hearing aid dispenser in the recipient's home in excess of one visit per year.
3. The purchase of a noncontract hearing aid.
4. The provision of more than one hearing aid in a five year period.

<u>Service Code</u>	<u>Service Description</u>
V5299	Hearing aid, not otherwise classified
X5260	Home visits by hearing instrument dealers

V. ALL OTHER SERVICES

The following types of health services require prior authorization:

1. Any service on this list or of the type specified in 2-7 below. If not within Minnesota or the recipient's local trade area, prior authorization is required for all out of state health services, and transportation to those services. All air ambulance transportation which occurs outside of Minnesota must receive prior authorization from the Department.
2. All weight reduction programs, partial hospitalization programs, pain programs, cardiac rehabilitation programs, eating disorder programs, diabetic education programs, and other structured outpatient programs.
3. Investigative health services and procedures.
4. Elective plastic and reconstructive procedures.
5. Nonformulary drugs.
6. All medical, surgical, or behavioral modification services aimed specifically at weight reduction.
7. In addition, the following specific procedures require prior authorization:

<u>Service Code</u>	<u>Service Description</u>
X1420	Acupuncture
X2010*1	Manual manipulation of the spine by a chiropractor, initial treatment
X2020*1	Manual manipulation of the spine by a chiropractor, subsequent treatment
X2393-22*3	Nutritional consultation, evaluation by R.D.
X2393*3	Nutritional consultation, follow-up visit
X2395	Diabetic education—Type I
X2396	Diabetic education—Type II
X4020*2	Private duty nursing by RN
X4021*2	Private duty nursing by LPN
X5315	Cardiac rehabilitation
X5322	Weight control program
X5329	Lithotripsy when used for treatment of gallstones
X5330	Partial hospitalization program—adult
X5331	Partial hospitalization program—adolescent
X5493	Prenatal Initiative (PNI)—includes all services in X5495-X5499
X5495	PNI—antepartum management, high risk
X5496	PNI—care coordination, high risk
X5497	PNI—prenatal health education I, high risk
X5497-52	PNI—prenatal health education II, high risk
X5498	PNI—prenatal nutrition education, high risk
X5499	PNI—follow up home visit, high risk
X7010	MR waiver special needs—service
X7020	MR waiver special needs—equipment

X9995	Inpatient chemical dependency
11920	Tattooing, intradermal introduction of insoluble opaque pigments to correct color defects of skin
11921	6.1 to 20.0 sq cm
11922	each additional 20.0 sq cm
11950	Subcutaneous injection of "filling" material
11951	1 to 5 cc
11952	5 to 10 cc
11954	over 10 cc
11960	Insertion of tissue expander
15775	Punch graft for hair transplant; 1 to 15 punch grafts
15776	more than 15 punch grafts
15780	Dermabrasion of skin
15781	less than total face
15782	regional
15783	Superficial, any size (e.g., tattoo removal)
15786	Dermabrasion: single lesion
15787	each additional four lesions or less
15790	Superficial chemical peel
15791	regional, face, hand, or elsewhere
15810	Salabrasion
15811	20 sq cm and over
15820	Blepharoplasty, lower eyelid
15821	with extensive herniated fat pad
15822	Blepharoplasty, upper eyelid
15823	with excessive skin weighing down lid
15824	Rhytidectomy; forehead
15826	glabellar frown lines
15828	cheek, chin, and neck
15831	Excision, excessive skin and subcutaneous tissue (including lipectomy), abdomen (abdominoplasty)
15832	thigh
15833	leg
15834	hip
15835	buttock
15836	arm
15837	forearm or hand
15838	submental fat pad
15839	other area
15875	Liposuction
17360	Chemical exfoliation for acne
17380	Electrolysis epilation
19316	Mastopexy
19318	Reduction mammoplasty
19324	Mammoplasty, augmentation without prosthetic implant
19325	with prosthetic implant
19350	Nipple/areola reconstruction
19355	Correction of inverted nipples
21010	Arthrotomy, temporomandibular joint, unilateral
21011	bilateral
21050	Condylectomy, temporomandibular joint, separate procedure
21060	Meniscectomy, temporomandibular
21070	Coronoidectomy; unilateral
21071	bilateral
21116	Injection procedure for temporomandibular arthrotomography
21200	Osteotomy; mandible, total or horizontal
21202	mandible, segmental
21204	maxilla, total
21206	maxilla, segmental

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- 21240 Arthroplasty, temporomandibular joint
- 21242 Arthroplasty, temporomandibular joint, with allograft
- 21243 Arthroplasty, temporomandibular joint, with prosthetic
- 21244 Reconstruction of mandible, extraoral, with transosteal bone plate
- 21245 Reconstruction of mandible or maxilla, subperiosteal implant, partial
- 21246 Reconstruction of mandible or maxilla, subperiosteal implant, complete
- 21248 Reconstruction of mandible or maxilla, endosteal implant, partial
- 21249 Reconstruction of mandible or maxilla, endosteal implant, complete
- 21250 Osteoplasty of maxilla and/or other facial bones
- 21254 with bone graft
- 21260 Periorbital osteotomies for orbital hypertelorism
- 21261 combined intro and extracranial approach
- 21263 with forehead advancement
- 21267 Orbit repositioning
- 21268 combined intra and extracranial approach
- 21270 Reconstruction for Treacher Collins Syndrome
- 21275 Secondary revision of orbitocraniofacial reconstruction
- 21462*8 Open treatment of closed or open mandibular fracture, with interdental fixation
- 21485 Complicated manipulative treatment of TMJ dislocation, initial or subsequent
- 30120 Excision or surgical planing of skin of nose
- 30400 Rhinoplasty, primary
- 30410 complete
- 30420 including major septal repair
- 30430 Rhinoplasty, secondary
- 30435 intermediate
- 30450 major revision
- 33940 Donor cardiectomy, with prep, etc.
- 33945 Heart transplant with or without recipient cardiectomy
- 38230 Bone marrow harvesting for transplantation
- 38240 Bone marrow transplant
- 40650 Repair lip, full thickness, vermilion only
- 40652 up to half vertical height
- 40654 over one half vertical height, or complex
- 40700*6 Plastic repair of cleft lip
- 40701*6 primary bilateral, one stage
- 40702*6 primary bilateral, one of two stages
- 40720*6 secondary, unilateral
- 40740*6 secondary, bilateral
- 42200*6 Palatoplasty for cleft palate, soft and/or hard plate
- 42205*6 Palatoplasty for cleft palate, with closure of alveolar ridge
- 42210*6 with bone graft to alveolar ridge
- 42215*6 Palatoplasty for cleft palate, major revision
- 42220*6 secondary lengthening procedure
- 42225*6 attachment pharyngeal flap
- 43810 Gastroduodenostomy
- 43820 Gastrojejunostomy
- 43825 with vagotomy, any type
- 43844 Gastric bypass for morbid obesity
- 43845 Gastric stapling for morbid obesity
- 43846 Gastric bypass with Roux-en-Y gastroenterostomy
- 43850 Revision of gastroduodenal anastomosis with reconstruction, without vagotomy
- 43855 with vagotomy
- 43860 Revision of gastrojejunal anastomosis (Gastrojejunostomy) with reconstruction, without vagotomy
- 43865 with vagotomy
- 44131 Intestinal bypass for morbid obesity, enteroenterostomy
- 47135 Liver transplantation
- 50300 Donor nephrectomy, with preparation and maintenance of homograft, from cadaver donor, unilateral or bilateral

50320 from living donor, unilateral
 50340 Recipient nephrectomy, unilateral
 50341 bilateral
 50360 Renal homotransplantation, implantation of graft, excluding donor and recipient nephrectomy
 50365 with unilateral recipient nephrectomy
 50366 with bilateral recipient nephrectomy
 50590 Extracorporeal shock wave when used for treatment of gallstones
 54400 Plastic operation for insertion of penile prosthesis
 54405 Plastic operation for insertion of inflatable penile prosthesis
 54660 Insertion of testicular prosthesis, penile prosthesis, unilateral
 54661 bilateral
 55970 Intersex surgery, male to female
 55980 female to male
 59015 Chorionic villi sampling
 61850 Twist drill or burr hole(s) for implantation of neurostimulator electrodes, cortical
 61855 subcortical
 61860 Craniectomy or craniotomy for implantation of neurostimulator electrodes, cerebral, cortical
 61865 subcortical
 61870 Craniectomy for implantation of neurostimulator electrodes, cerebellar, cortical
 61875 subcortical
 61880 revision or removal of intracranial neurostimulator electrodes
 61885 Incision for subcutaneous placement of neurostimulator receiver, direct or inductive coupling
 61888 Revision or removal of intracranial neurostimulator receiver
 63185 Laminectomy for rhizotomy, 1 or 2 segments
 63190 Laminectomy for rhizotomy, more than 2 segments
 63650 Percutaneous implantation of neurostimulator electrodes
 63652 intradural (spinal cord)
 63655 Laminectomy for implantation of neurostimulator electrodes
 63656 endodural
 63657 subdural
 63658 spinal cord (dorsal or ventral)
 63660 Revision or removal of spinal neurostimulator electrodes
 63685 Incision for subcutaneous placement of neurostimulator receiver
 63688 Revision or removal of spinal neurostimulator receiver
 64550 Application of surface (transcutaneous) neurostimulator
 64553 Percutaneous implantation of neurostimulator electrodes, cranial nerve
 64555 peripheral nerve
 64560 autonomic nerve
 64565 neuromuscular
 64573 Incision for implantation of neurostimulator electrodes, cranial nerve
 64575 peripheral nerve
 64577 autonomic nerve
 64580 neuromuscular
 64585 Revision or removal of peripheral neurostimulator electrodes
 64590 Incision for subcutaneous placement of neurostimulator receiver, direct or inductive coupling
 64595 Revision or removal of peripheral neurostimulator receiver
 67901 Repair blepharoptosis, frontalis muscle techniques with suture
 67902 frontalis muscle technique with fascial sling
 67903 (tarso) levator resection, internal approach
 67904 (tarso) levator resection, external approach
 67906 superior rectus technique with fascial sling
 67907 superior rectus tendon transplant
 67909 Reduction of overcorrection of ptosis
 67911 Correction of lid retraction
 69300 Otoplasty, protruding ear
 69301 bilateral
 88230*7 Tissue culture for chromosome analysis lymphocyte

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88233*7	Skin or other solid tissue biopsy
88237*7	Bone marrow (myeloid) cells
88239*7	Other tissue
88260*7	Chromosome analysis; lymphocytes, count 1-4 cells, screening
88261*7	count 1-4 cells, 1 karyotype
88261*7	count 1-20 cells for mosaicism, 2 karyotypes
88263*7	Chromosome analysis, count 45 cells for mosaicism, 2 karyotypes, with banding
88280*7	Chromosome analysis, additional karyotyping
88283*7	Chromosome analysis, additional specialized banding technique
88285*7	additional cells counted
88289*7	Chromosome analysis, additional high resolution study
88299	Unlisted cytogenetic study
90841-90844*4	Psychotherapy
90844-22*4	Individual psychotherapy, discretionary visits, 45 to 50 minutes
90847*4	Family medical psychotherapy
90853*4	Group medical psychotherapy
90899*5	Unlisted psychiatric service or procedure, e.g., pain programs

*1 Prior authorization is required for treatments in excess of 6 per month and 24 per calendar year.

*2 All hours of private duty nursing provided in a hospital or facility certified as an ICF, SNF, or ICF/MR.

*3 Prior authorization is required for nutritional counseling services in excess of one nutritional counseling evaluation and two nutritional counseling follow-up visits per calendar year.

*4 A. PA is required for more than twenty-six (26) hours (52 visits) of 90843 and twenty (20) hours of 90844 per calendar year.

B. In addition to the twenty hours of 90844 allowed in A above, a recipient is entitled to six (6) 90844-22s (the 22 modifier should be placed in boxes 28, 37, 46 of the practitioner invoice form DHS-1497) which are discretionary visits and may be used in any frequency or in combination with any other psychotherapy which is subject to the prior authorization requirement *without* requiring prior authorization. For example, a provider may choose to provide a group therapy session (98053) and an individual therapy session (98044 or 90844-22) during the same five (5) day calendar period. This would normally require prior authorization if the 90844 code was used. See F below. However, by using one of the six (6) 90844-22s the prior authorization system can be bypassed. **THE PURPOSE OF THESE 90844-22s IS TO PROVIDE FLEXIBILITY WITHOUT THE NEED FOR OBTAINING PRIOR AUTHORIZATION. PLEASE UTILIZE THEM CAREFULLY AND THOUGHTFULLY.**

C. PA is required when 90843 is provided more frequently than once every five (5) calendar days.

D. PA is required either when more than three (3) hours of 90853 are provided within a five (5) calendar day period, or when more than seventy-eight (78) hours per calendar year has been reached.

E. PA is required for 90847 in excess of 26 hours per calendar year or when provided more frequently than once every five (5) calendar days.

F. PA is required when more than one type of psychotherapy (individual, group, or family) is provided within a five (5) calendar day period. However, 90843 and 90844 cannot be provided more frequently than once every ten (10) calendar days without prior authorization.

G. PA is required for 90844 provided more frequently than once every ten (10) calendar days and when 90843 and 90844 are provided more frequently than ten (10) calendar days apart. Calendar days are calculated by starting to count on the first day after rendering a service as day one (1) and counting forward for a total of five (5) or ten (10) days as applicable. Another service may not actually be provided until the sixth (6th) or 11th day.

*5 Prior authorization is required for pain clinic programs, eating disorder, and other structured outpatient programs.

*6 Prior authorization is required only when the service is performed on a patient 18 and over.

*7 Prior authorization is not required when these services are provided in the cases of still births or congenital abnormalities in children. These services, when provided to adults over 18, always require prior authorization.

*8 Prior authorization is required if this code is used more than 30 days after documented fracture.

Department of Labor and Industry

Workers' Compensation Rehabilitation Review Panel

Workers' Compensation Medical Services Review Board

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Workers' Compensation Rules of Practice for the Rehabilitation Review Panel and Medical Services Review Board

NOTICE IS HEREBY GIVEN that the State Department of Labor and Industry is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules of practice for health care providers and qualified rehabilitation consultant and vendor disciplinary proceedings and for appeals from orders of the Commissioner of the Department of Labor and Industry regarding certification of QRCs and vendors.

The adoption of the rule is authorized by *Minnesota Statutes*, section 176.102, subd. 3(b) and 176.103, subd. 3(c).

The State Department of Labor and Industry 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:

David Sherwood-Gabrielson
Rehabilitation Review Panel and
Medical Services Review Board
443 Lafayette Road
St. Paul, Minnesota 55155-4316

Oral statements will be received during regular business hours over the telephone at (612) 296-8213 and in person at the above address.

All statements of information and opinions shall be accepted until October 5, 1989. Any written material received by the Department of Labor and Industry 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: 1 September 1989

David Sherwood-Gabrielson, Director
Rehabilitation & Medical Affairs

Department of Natural Resources

Bureau of Real Estate Management—Land Exchange Board

Notice of Special Meeting of the Land Exchange Board

A special meeting of the Land Exchange Board has been scheduled for Wednesday, September 20, 1989, at 8:30 a.m. in Room 237, State Capitol Building, St. Paul, Minnesota. This meeting is being held at the request of the U.S. Fish & Wildlife Service to consider their request for LEB approval of land acquisitions.

Department of Natural Resources

Minerals Division

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, Itasca, Koochiching, Lake of the Woods, Marshall, Roseau and St. Louis counties, is scheduled to be held on October 12, 1989 at 1:30 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 Sixth Annual Current Mineral Activities Forum. No land or water areas within the Boundary Waters Canoe Area Wilderness or Voyageurs National Park are included in this lease sale.

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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* Section 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 October 11, 1989.

On October 12, 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: 1 September 1989

Joseph N. Alexander, Commissioner
Department of Natural Resources

Office of the Ombudsman for Mental Health and Mental Retardation

Notice of Meeting

The Ombudsman for Mental Health and Mental Retardation Advisory Committee will hold a general meeting at 9:00 a.m. on Friday, September 22, 1989. The meeting will be held at the Ombudsman Office, Suite 202, Metro Square Building on 7th and Robert Street, St. Paul.

Pollution Control Agency

Division of Air Quality

Notice of Intent to Solicit Written Comment Regarding Draft Request for Proposals for a Contractor to Conduct the Vehicle Inspection and Maintenance Program for Motor Vehicles in the Twin Cities Metropolitan Area

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is seeking written comment from outside sources on a draft request for proposals (RFP) for a contractor to perform emission testing of motor vehicles in the Twin Cities Metropolitan area. The final RFP will solicit proposals for conducting the Vehicle Inspection and Maintenance Program (I/M Program) as mandated by *Minnesota Statutes*, Sections 116.60 to 116.65 (1988) and as specified in *Minnesota Rules*, pts. 7005.5010 to 7005.5105 (1989). The contractor conducting the I/M Program will design, construct, equip and operate a network of vehicle inspection stations in the seven county metropolitan area. The I/M Program will inspect motor vehicle emission control equipment and conduct emission testing on vehicles registered in the metropolitan area. The I/M Program must be operating no later than July 1, 1991. The entire I/M Program will be conducted by a single contractor, and the contractor selected will operate the I/M Program stations for a minimum of five years, according to *Minnesota Statutes*, Section 116.62, subd. 3 (1988).

The MPCA wishes to obtain written comments on the draft RFP. The MPCA will consider all written and timely comments on the draft RFP, but reminds commenters that this solicitation of comment is discretionary and grants no rights to any commenter. Comments may or may not be incorporated in the final RFP, at the discretion of the MPCA. The availability of the final RFP will be noticed in the *State Register*. Copies of the draft RFP can be obtained from:

Michael Vennewitz
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155
Telephone: (612) 297-5489

Comments shall be written and must be received at the above address by September 29, 1989 to be considered by the MPCA.

Gerald L. Willet
Commissioner

Minnesota Pollution Control Agency

Division of Hazardous Waste

Notice of Intent to Solicit Outside Information Regarding Proposed Amendments to Minnesota Rules Chapter 7046 Governing Hazardous Waste Facility Fees

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 hazardous waste facility fees. Under the existing facility fee rules, fees for closed hazardous waste land disposal facilities (LDF's) are the same as those for active LDF's. The MPCA is considering proposing amendments to provide a separate fee category for closed hazardous waste LDF's to reflect any differences in the MPCA resources necessary for oversight of a closed LDF versus an active LDF. This separate fee category would set out the permit application fee, the annual operating fee, and permit reissuance fee for closed LDF's. In any event, the facility fees will not be increased.

PLEASE NOTE: THE AMENDMENTS THE MPCA IS CONSIDERING WOULD ONLY AFFECT HAZARDOUS WASTE FACILITY FEES. THE AMENDMENTS WOULD NOT AFFECT OR CHANGE THE HAZARDOUS WASTE GENERATOR FEE PORTION OF *MINNESOTA RULES* CH. 7046.

The amendment of the rules is authorized by *Minnesota Statutes* §§ 16A.128, subd. 1a and 116.12, subd. 1 (1988).

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

Patrick Carey
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
Telephone: 612/296-7767

Official Notices

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 October 11, 1989. 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

Minnesota Pollution Control Agency

Division of Ground Water and Solid Waste

Notice of Intent to Solicit Outside Information Regarding Proposed Rule Governing Infectious Waste Management

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is seeking information or opinions from outside sources in preparing to propose the adoption of rules governing Infectious Waste Management. The adoption of the rule is authorized by *Minnesota Statutes* § 115.75 through 116.83 (1989), which allows the MPCA to adopt rules governing the implementation of the Infectious and Pathological Waste Control Act.

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

Julie Marien Ketchum
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
Telephone: 612/296-7388

Oral statements will be received during regular business hours, 7:00 a.m. to 3:30 p.m., Monday through Friday.

All statements of information and opinion will be accepted until November 1, 1989. Any written materials received by the MPCA shall become part of the rulemaking record in the event that the rule is adopted.

Gerald L. Willet
Commissioner

Pollution Control Agency

Division of Hazardous Waste

Notice of Intent to Solicit Outside Information Regarding Proposed Amendments to *Minnesota Rules* Chapters 7001, 7045, and 7100 Governing the Management of Hazardous Waste and Polychlorinated Biphenyls

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 and polychlorinated biphenyls (PCB). Specifically, the MPCA is considering proposing amendments regarding the following:

1. Permit modification procedures for hazardous waste facilities. The amendments would provide for an expedited process for modifying hazardous waste permits when permit modifications are requested by the permittee.
2. Liability coverage for hazardous waste facilities. The amendments would allow owners or operators of hazardous waste facilities to use additional financial assurance mechanisms for liability coverage. Additional mechanisms being considered are: a letter of credit; a surety bond assuring payment of liability claims; a fully-funded trust fund; and a guarantee provided by a firm that is not the direct parent of the owner or operator.
3. A clarification to the existing language governing test burn information requirements for the modification of existing hazardous waste incinerator permits. The amendments would clarify that in the event a test burn is conducted for modifications at an existing incineration facility, the owner or operator must submit the trial burn results prior to permit issuance not after permit issuance.
4. Technical corrections to the existing standards for hazardous waste tank systems. These technical corrections would clarify the language of the existing standards for hazardous waste tank systems in order to provide for the original intent of the standards.

5. Minnesota's PCB program. The MPCA will be considering amendments to the state PCB certification of exemption program based on an analysis of the effectiveness of the existing program.

The MPCA is considering the amendments governing permit modification procedures, liability coverage, test burn information requirements, and hazardous waste tank systems in response to amendments to the federal hazardous waste regulations promulgated by the U.S. Environmental Protection Agency on September 28, 1988 and March 7, 1989, September 1, 1988, January 30, 1989, and September 2, 1988, respectively. Amendments governing Minnesota's PCB program are being considered based on the MPCA's analysis of the effectiveness of the current PCB program. The amendment of the rules is authorized by *Minnesota Statutes* §§ 116.07, subd. 4 and 116.37 (1988).

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

Patrick Carey
Minnesota Pollution Control Agency
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 October 11, 1989. 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

State Planning Agency

Environmental Quality Board

Outside Opinion Sought on Rules Governing Environmental Review

NOTICE IS HEREBY GIVEN that the Environmental Quality Board (Board) is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rules governing environmental review. The Board is considering amending a section of the existing environmental review rules, in accordance with its responsibility to monitor the rules and to take appropriate measures to improve their effectiveness under *Minnesota Rules* pt. 4410.0400 subp. 1. The adoption to the rules is authorized by *Minnesota Statutes* section 116D.04.

The Board requests information and comments concerning only *Minnesota Rules* part 4410.7000. The board is proposing an amendment to this rule to reflect a 1989 statutory amendment in the Power Plant Siting Act. That amendment (*Minnesota Statutes*, section 116C.57, subd. 5a) provides for an exemption from the power plant siting process for large electric power generating plants with a capacity of between 50 and 80 megawatts. The proposed change in the environmental review rules is needed to permit the exemption process in the power plant siting rules to constitute alternative environmental review. The board is concurrently soliciting opinions on the associated amendments of the power plant siting rules through a separate notice in this issue of the *State Register*.

Interested or affected persons or groups may submit data or views on the subject matter of concern either orally or in writing. Written statements should be addressed to:

Bob Cupit
Minnesota Environmental Quality Board
300 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-2096 and in person at the above address.

All statements of information and comment will be accepted through October 11, 1989. Any written material received by the Board will become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that amendments are adopted.

The board maintains a list of all persons who have registered with the board for the purpose of receiving notice of rule hearings. Anyone interested in being placed on this list should contact Mr. Cupit.

State Planning Agency

Environmental Quality Board

Outside Opinion Sought on Rules Governing Power Plant Siting

NOTICE IS HEREBY GIVEN that the Environmental Quality Board (Board) is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rules governing power plant siting. The Board is considering amending the power plant siting rules, pursuant to the authority granted to the board in the Power Plant Siting Act, *Minnesota Statutes*, section 116C.51 et seq., to give effect to the act.

The Board requests information and comments concerning changes in the rules necessary to clarify and improve procedural effectiveness, and specifically to add an amendment to reflect a 1989 statutory amendment in the Power Plant Siting Act. That amendment (*Minnesota Statutes*, section 116C.57, subd. 5a) provides for an exemption from the power plant siting process for large electric power generating plants with a capacity of between 50 and 80 megawatts.

Interested or affected persons or groups may submit data or views on the subject matter of concern either orally or in writing. Written statements should be addressed to:

Bob Cupit
Minnesota Environmental Quality Board
300 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-2096 and in person at the above address.

All statements of information and comment will be accepted through October 11, 1989. Any written material received by the Board will become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that amendments are adopted.

The board maintains a list of all persons who have registered with the board for the purpose of receiving notice of rule hearings. Anyone interested in being placed on this list should contact Mr. Cupit.

MAILING LISTS GALORE

Successful business means successful sales

The Print Communications 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, 9-track magnetic tapes, and now diskettes for minimum orders.

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 service packet. In a hurry? Call (612) 297-2552 for more information. Requests can be sent to: Print Communications Division, Mailing List Service, 117 University Avenue, St. Paul, MN 55155.

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

State Contracts and Advertised Bids

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

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

Commodities contracts with an estimated value of \$15,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

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

Department of Administration: Materials Management Division

Contracts and Requisitions Open for Bid

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

Commodity: Veterans Bronze Star grave markers—Rebid
Contact: Linda Parkos 296-3725
Bid due date at 2pm: September 15
Agency: Veterans Affairs
Deliver to: St. Paul
Requisition #: 75100 00026 1

Commodity: Cargo van full size, 10,000 GVW capacity
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: September 15
Agency: Correctional Facility
Deliver to: Faribault
Requisition #: 78550 06995

Commodity: Surface texture measurement system
Contact: Joseph Gibbs 296-3750
Bid due date at 2pm: September 19
Agency: State University
Deliver to: Mankato
Requisition #: 26071 19234

Commodity: Copier rental—Brainerd
Contact: Teresa Ryan 296-7556
Bid due date at 2pm: September 15
Agency: Community College
Deliver to: Brainerd
Requisition #: 27140 50011

Commodity: Lumber—posts
Contact: Pam Anderson 296-1053
Bid due date at 2pm: September 14
Agency: Transportation
Deliver to: Austin
Requisition #: 79050 23853

Commodity: Photometric range system for reflectivity measurements
Contact: Joseph Gibbs 296-3750
Bid due date at 2pm: September 19
Agency: Transportation Dept.
Deliver to: St. Paul
Requisition #: 79000 02887

Commodity: Fuel oil—heating (no. 1 & 2)
Contact: Jim Johnson 296-3779
Bid due date at 2pm: September 15
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Stage lighting and control system
Contact: Joan Breisler 296-9071
Bid due date at 2pm: September 14
Agency: State University
Deliver to: Winona
Requisition #: 26074 13121

Commodity: A complete line of ball & roller bearings
Contact: Dale Meyer 296-3773
Bid due date at 2pm: September 19
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: IBN PS/2's
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: September 15
Agency: State University
Deliver to: Moorhead
Requisition #: 26072 02037

Commodity: Exercise equipment
Contact: Linda Parkos 296-3725
Bid due date at 2pm: September 20
Agency: Inver Hills Community College
Deliver to: Inver Grove Heights
Requisition #: 27157 48148

Commodity: Zenith computers
Contact: Bernadette Vogel 296-3778
Bid due date at 2pm: September 15
Agency: State University
Deliver to: Moorhead
Requisition #: 26072 02034

State Contracts and Advertised Bids

Department of Administration: Print Communications Division

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

Commodity: MTO October Calendar, 6 issues, 7,500 2-pages 8½"x14" folded to 8½"x3½" camera ready, 1-sided
Contact: Printing Buyer's Office
Bids are due: September 14
Agency: Trade and Economic Development
Deliver to: St. Paul
Requisition #: 1143

Commodity: Brochure (4 versions), 2M Hmong, 1M each Cambodian, Laotian and Vietnamese, 11"x8½" folded to 3⅞"x8½", camera ready, 2-sided
Contact: Printing Buyer's Office
Bids are due: September 14
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 1198

Commodity: Round label stickers, 1,500 sheets, 1½" across, camera ready, 1-sided
Contact: Printing Buyer's Office
Bids are due: September 14
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 1457

Commodity: Mailing labels, 5M rolls of 1M, 3"x5" diecut on 5½" backing 1/8" between each label, 1-sided
Contact: Printing Buyer's Office
Bids are due: September 14
Agency: Trade and Economic Development Department
Deliver to: St. Paul
Requisition #: 1458

Commodity: Prescription label, 50M labels 2⅞"x1⅞", type to set, 1-sided, rounded corners, adhesive back pressure sensitive and permanent
Contact: Printing Buyer's Office
Bids are due: September 14
Agency: Minnesota Veterans Home
Deliver to: Minneapolis
Requisition #: 1538

Commodity: Private agricultural ATV registration application, 100M 2-part sets, 7½"x5¾" overall, type to set, 1-sided, preprinted numbering
Contact: Printing Buyer's Office
Bids are due: September 14
Agency: DNR—Licensure Bureau
Deliver to: St. Paul
Requisition #: 1495

Commodity: Application for turkey hunt, 13.4M imaged and 26.6M non-imaged 8½"x6½", 4-part sets, type to set, two way self contained mailable document with built in return envelope
Contact: Printing Buyer's Office
Bids are due: September 14
Agency: DNR—License Bureau
Deliver to: St. Paul
Requisition #: 1342

Commodity: Authorization, 75M 3-part sets, 9½"x11" overall, negs available, 1-sided
Contact: Printing Buyer's Office
Bids are due: September 14
Agency: Jobs and Training Department
Deliver to: St. Paul
Requisition #: 0480

Commodity: Certificate of rent paid, 1,200M 2-part sets, 8½"x6⅞" top sheet, 8½"x6⅞" bottom sheet, camera ready, 1-sided
Contact: Printing Buyer's Office
Bids are due: September 14
Agency: Revenue Department
Deliver to: St. Paul
Requisition #: 1210

Commodity: Prebill with title, 3,500M continuous sheets 16"x3½" (2 across), camera ready, 2-sided
Contact: Printing Buyer's Office
Bids are due: September 14
Agency: Public Safety Department
Deliver to: St. Paul
Requisition #: 0414

Commodity: File jacket, 1,500, type to set, 1-sided, preprinted numbering
Contact: Printing Buyer's Office
Bids are due: September 14
Agency: Revenue Department
Deliver to: St. Paul
Requisition #: 1535

Commodity: Change of program/change of grade, 50M 3-part snap out sets, 7⅞"x3¼" detached, camera ready, 1-sided
Contact: Printing Buyer's Office
Bids are due: September 15
Agency: Community College System
Deliver to: St. Paul
Requisition #: 1507

Commodity: Continuous data processing forms, 100M, 8½"x3¼", 1-part continuous form
Contact: Printing Buyer's Office
Bids are due: September 15
Agency: Community College System
Deliver to: St. Paul
Requisition #: 1508

Commodity: Assessment booklets (15M each 6 kinds; one 5M and one 200), answer sheets (500M) and header sheets (20M), 8½"x11", saddle stitch, type to set, 36-56 pages
Contact: Printing Buyer's Office
Bids are due: September 19
Agency: Education Department
Deliver to: St. Paul
Requisition #: 1286

Commodity: Watercraft (35M); snowmobile (260M); and all-terrain decals, registration and ID cards, type to set, various sizes
Contact: Printing Buyer's Office
Bids are due: September 19
Agency: DNR
Deliver to: St. Paul
Requisition #: 1007 8 9 10 11 12 13 14

State Contracts and Advertised Bids

Commodity: 1990 Winter State Park Maps, 214,192 sheets (59 different maps) camera ready + negs, 8½"x 11" + 11"x17", accordian fold to 3⅜"x5½", 2-sided

Contact: Printing Buyer's Office

Bids are due: September 19

Agency: DNR

Deliver to: St. Paul

Requisition #: 1491

Commodity: Watercraft (195M), snowmobile (67M) and all terrain vehicle renewal notices (10M), type to set, 8½"x6⅞", 4-part set

Contact: Printing Buyer's Office

Bids are due: September 19

Agency: DNR

Deliver to: St. Paul

Requisition #: 1015 6 7

Getaway in Style

Room at the Inn Wisconsin. Includes hard-to-find lodgings in out-of-the-way places, as well as in Wisconsin's major metropolitan areas and most popular vacation destinations. 224pp. Stock #19-3. \$9.95 plus tax.

Room at the Inn Minnesota. Looking for a weekday or weekend get-away? For a business meeting or simply pleasure? This is the only guide to more than 50 historic "Bed & Breakfast" homes, hotels, and country inns and all are within a day's drive of the Twin Cities. 127pp. Stock #19-72, \$9.95 plus tax.

Roughing It Elegantly. A guide for the canoe camper visiting the BWCA, Voyageurs Park and Quetico Provincial Park. Full of practical tips and information: planning, organizing, packing, site location, and camp set-up. Simple, creative, enjoyable meals are a major feature. 159pp. Stock #9-3, \$9.95 plus tax.

Guide to Wilderness Canoeing. A unique blend of practical information and personal philosophy. Subjects covered include: spring and fall canoeing, traditional versus modern canoe design, and different paddling techniques. 143pp. Stock #19-81, \$6.95 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. **Prices are subject to change.**



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

Professional, Technical & Consulting Contracts

Department of Commerce

Notice of Request for Proposals for Defense Counsel for the Minnesota Joint Underwriting Association

The Department of Commerce is requesting proposals from qualified law firms to provide defense counsel to the Minnesota Joint Underwriting Association (MJUA). The Department intends to compile a list of qualified firms which the MJUA Board may draw upon in the event a lawsuit is brought against one of its insureds. Proposals should include:

1. Evidence of competency in the area of general liability defense including backgrounds, training and experience of specific lawyers within the firm.
2. A fee schedule including hourly rates for specific lawyers as well as legal assistants and clerical staff.
3. A minimum of three references.

Please submit proposals by October 15, 1989 to:

Beth Eulberg, Administrator
Minnesota Joint Underwriting Association
Pioneer P.O. Box 1760
St. Paul, MN 55101
612/222-0484

State Designer Selection Board

Request for Proposal for Four Projects

To Registered Professional in Minnesota:

The State Designer Selection Board has been requested to select designers for four projects. Design firms who wish to be considered for this project should submit proposals on or before 4:00 p.m., October 3, 1989, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

- 1) Six copies of the proposal will be required.
- 2) All data must be on 8½" x 11" sheets, soft bound.
- 3) The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.

4) Mandatory Proposal contents in sequence:

- a) Identity of firm and an indication of its legal status, i.e., corporation, partnership, etc. If the response is from a joint venture, this information must be provided for firms comprising the joint venture.
- b) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If desired, identify roles that such persons played in projects which are relevant to the project at hand.
- c) A commitment to enter the work promptly, if selected, by engaging the consultants, and assigning the persons named in 4b above along with adequate staff to meet the requirements of work.
- d) A list of State and University of Minnesota current and past commissions under contract or awarded to the prime firm(s) submitting this proposal during the three (3) years immediately preceding the date of this request for proposal. The prime firm(s) shall **list and total** all fees associated with these projects whether or not the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid directly to engineers or other specialty consultants employed on the projects listed pursuant to the above.
- e) A section containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described. It must be noted if the personnel named were, at the time of the work, employed by other than their present firms.

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

5) Statutory Proposal Requirements:

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

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

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
 - b) A statement certifying that the firm has a current certificate of compliance issued by the Commissioner of Human Rights; or
 - c) A statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months; or
 - d) A statement certifying that the firm has an application pending for a certificate of compliance.
- 6) Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:
- a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded; or
 - b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

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

Professional, Technical & Consulting Contracts

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

7a) PROJECT—40-89

Detroit Lakes Headquarters Addition
Department of Transportation
Detroit Lakes, Minnesota
Estimated Fees: \$100,000.00

General Description: This project consists of preparing construction documents and a final construction cost estimate for an office addition and remodeling of the existing Detroit Lakes headquarters.

Consultant Contract: This project has had previous architectural consultant involvement to draw schematics and do a preliminary estimate.

7b) PROJECT—41-89

Spring Lake Park Truck Station
Department of Transportation
Estimated Fees: \$55,000.00

General Description: This project consists of preparing construction documents and a final construction cost estimate for an equipment storage building with employee lunch room, locker room, rest rooms and small office at the existing site in Spring Lake Park.

Consultant Contract: This project has not had any previous architectural consultant involvement. The firm selected should have previous experience in design of garage/vehicle storage buildings.

7c) PROJECT—42-89

Thief River Falls Maintenance Building
Department of Transportation
Thief River Falls Maintenance Building
Estimated Fees: \$100,000.00

General Description: This project consists of preparing construction documents and a final construction cost estimate for a building to house the MN/DOT resident engineer construction office, the truck station, the State Patrol district office, and the Department of Natural Resources area office. Site master plan will also be required.

Consultant Contract: This project has not had any previous consultant involvement. The successful consultant should have previous experience in vehicle storage space and office design.

Questions concerning these projects may be referred to Paul Jensen at (612) 297-3591.

7d) PROJECT—43-89

Biological Sciences Addition
University of Minnesota
St. Paul, Minnesota

The University of Minnesota is planning to construct the Biological Sciences Addition project which is located on the St. Paul campus of the University of Minnesota. The project will house the Department of Ecology and Behavioral Biology as well as some units of the Bell Museum, both currently located on the Minneapolis campus. This project will allow these units to work more closely together with other campus units interested in molecular, cellular, genetic, or plant organismal approaches to biology. The project will be an addition to the present complex which consists of Gortner Laboratory, Snyder Hall, and Biological Sciences.

The project will consist of approximately 54,000 assignable square feet and will have a construction budget of approximately \$14.9 million. The new space will consist primarily of research laboratories, teaching laboratories, classrooms, library, collections storage, greenhouse, and faculty and administrative offices. It is important that the design be flexible and adaptable to changing demands. It is possible that there may be a small amount of remodeling required in existing facilities, in addition to that required to interface with the new construction.

It is important that the design of the addition be compatible with the surrounding campus architecture and enhance the aesthetic quality of the campus environment.

Questions regarding this project may be referred to Clinton Hewitt at (612) 625-7355.

Mark Anderson, Chairman
State Designer Selection Board

Professional, Technical & Consulting Contracts

Department of Education

Instructional Effectiveness Division

Request for Printing Services for Fiscal Year 1990

The Office of Assessment and Program Evaluation requires printing services in line with the conduct of statewide testing in the area of language arts. The following services are required: 1) developing and printing 15,000 language skills test booklets (36 pages) for each of grades 6, 9, and 11; 2) developing and printing 15,000 reading test booklets (56 pages) for each of grades 6, 9, and 11 (covers will be different colors for all six booklets); 3) developing and printing 20,000 scannable computer header sheets; 4) developing and printing 500,000 (8½ x 11) common scannable answer sheets; 5) developing and printing 5,000 writing assessment reporting booklets (8½ x 11); and 6) developing and printing 200 Mathematics reporting booklets (60 pages).

For additional information contact:

Dr. William B. McMillan, Manager
Office of Assessment and Program Evaluation
Room 730—Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Formal bids will be processed through the State Department of Administration and should be received no later than October 13, 1989.

Department of Health

Division of Maternal and Child Health; Services for Children with Handicaps

Request for Proposals to Provide Continuing Educational Programs in the Health Care Management of Children and Youth With Diabetes

Services for Children with Handicaps (SCH) aims to improve the health of Minnesota children and youth with diabetes by assuring the availability of contemporary diabetes health care management throughout the state. Therefore, SCH is requesting proposals from organizations providing both health care and educational services. The overall purpose of the contract is to provide continuing educational programs in the health care management of children and youth with diabetes.

The contractor's duties shall be to provide clinical, psychological, endocrinological and nutritional services for physicians, health professionals, families of children with diabetes, and school and day care personnel in seven (7) regions of the state; the skills and knowledge of these clinicians will be used to provide diabetes continuing education programs. Each program shall include the following, at minimum:

1. A list of objectives.
2. A discussion of standards of care for Type I and Type II diabetes, with emphasis on Type I.
3. A discussion of current diabetes management practices, including the importance of accuracy and quality with diabetes control measures (e.g., blood glucose monitoring, insulin therapy and the assessment and management of complications).
4. A description of patient and health care providers responsibilities in diabetes management.
5. A discussion of the psychosocial impact on chronic disease on patients and their families, including content on parenting skills required to nurture the chronically ill child.
6. A description of current diabetes research findings and technological tools and their application to the clinical management of diabetes.
7. A discussion on the resources available to assist primary care physicians with the health care of children and youth with diabetes.
8. The provision of appropriate written educational materials for program participants.
9. The provision of the following Continuing Education Credits: Registered Dietitian Clock Hours, Registered Nurse Contact Hours, and Physician's AMA Continuing Education Category I.

The contractor will be required to provide the state a report which shall include, at least, the following for each of the seven regional programs.

Professional, Technical & Consulting Contracts

1. Information showing the extent to which the program objectives were met.
2. The number of participants at each program broken out by professional discipline and family member.
3. Participants' evaluation of each program broken out by professional discipline and family member.

The report shall also include an overall summary of evaluations and accomplishments as well as recommendations for further improvement of diabetes health care for Minnesota children and youth.

The total obligation of the state for all compensation and reimbursements to contractor shall not exceed \$22,097.18.

Proposals shall be submitted to Alpha Adkins, Section Chief, Services for Children with Handicaps, 717 Delaware Street S.E., P.O. Box 9441, Minneapolis, Minnesota 55440, three weeks following publication of this request. The contract period shall extend from October 15, 1989 through June 30, 1990.

Department of Health

Notice of Proposal for Advice on Rehabilitation and Liquidation of Health Maintenance Organizations

The Minnesota Department of Health is requesting proposals from an eligible person or organization which would be able to advise the Alternative Delivery Systems of the Minnesota Department of Health on revising Minnesota statutes dealing with rehabilitation and liquidation of Health Maintenance Organizations (HMOs).

Qualifications for the position are as follows: experience with the rehabilitation and liquidation of HMOs in Minnesota or other states, and a working knowledge of bankruptcy issues, especially in the context of HMOs and insurance companies.

Minimum tasks include: 1). identifying the shortcomings in current Minnesota law related to HMO rehabilitation and liquidation, 2). assisting the Department in developing legislative solutions to those shortcomings, 3). assisting the Department to draft legislative proposal, 4). testifying before legislative committees, as needed.

Interested persons will be required to submit a formal proposal in accordance with the request for proposal instructions which is available from Robin Lackner at 623-5608. Maximum reimbursement will be \$8,000 in FY 1990. The deadline for proposals is September 29, 1989.

Department of Human Services

Notice of Request for Proposals to Maintain and Enhance the Community Social Services Information Systems (CSIS)

The Minnesota Department of Human Services (DHS), Community Social Services Division, is soliciting proposals from qualified vendors to maintain and enhance the Community Services Information System (CSIS) for calendar year 1990. The functions to be provided by the selected vendor include basic maintenance of the COBOL code to fix minor problems identified by the users; development of major enhancements as assigned by the DHS contract manager; preparation and distribution of quarterly releases including any needed revisions of the user manuals and system documentation; operation of a technical helpline for users; initial and ongoing training of users; and receipt and security of data diskettes and electronic transmission of data to or from the Department.

Respondents must demonstrate successful experience in all aspects of maintaining and enhancing a major software package in county and social service environments. A minimum of five years experience within the last seven calendar years is required. Respondent staff must have proven experience in maintaining COBOL code. Respondent staff must have detailed knowledge of the administration of social services in Minnesota, as described in *Minnesota Statutes*, Chapter 256E, including programmatic, administrative, and fiscal issues. Respondent staff must have proven experience in providing training in information systems, writing user documentations, and in operating a technical help line.

The formal Request For Proposals is available from the Department of Human Services by contacting:

Terry A. Johns	444 Lafayette Road
Community Social Services Division	St. Paul, MN 55155-3839
Minnesota Department of Human Services	Phone 612/297-3959

The deadline for submitting proposals is 4:00 p.m., Monday, October 2, 1989.

Please direct all inquiries and proposal responses to Terry Johns at the above phone number or address.

Professional, Technical & Consulting Contracts

Department of Human Services

Children's Services Division

Notice of Request for Proposals to Survey and Report on Child Care Services in Minnesota

The Department of Human Services is seeking proposals from qualified individuals or organizations to conduct a survey and report on the availability of child care services in Minnesota.

The survey and report must provide information on:

1. the availability of licensed child care spaces;
2. the number of children in various kinds of care;
3. child care staff wages;
4. staff turnover rates;
5. staff qualifications;
6. cost of child care by type and ages of children served;
7. child care services available through the school systems; and
8. the extent to which child care services fulfill the need for child care, particularly for part-time care and care for infants, sick children, children with special needs, children of low income families, toddlers, and school age children.

QUALIFICATIONS OF CONTRACTOR

Extensive experience in survey instruments, data collection and statistical sampling.

PROPOSAL CONTENTS

1. Outline of the responder's background and experience with particular emphasis on work related to child care issues and the qualifications listed above.
2. A detailed cost and work plan for addressing items 1 to 8 above.

PROPOSAL DEADLINE

The project should commence by November 1, 1989 and must be completed by August 1, 1990. All proposals must be received by October 2, 1989.

The Department reserves the right to reject any or all responses and/or to issue another RFP for this request. Maximum reimbursement under this RFP is \$9,000.

DEPARTMENT CONTACT

Prospective responders who have any questions regarding this Request for Proposals may call or write:

Vicki Kunerth
Child Care Fund
444 Lafayette Road
St. Paul, Minnesota 55155-3832
(612) 296-6085

Department of Labor & Industry

Request for Proposal for Training Consultant

The Department of Labor and Industry, Workers' Compensation Administrative Operations is requesting proposals from consultants who can prepare a self-study training manual and a facilitator manual for a Computerized File Tracking System currently being developed by in-house computer staff. The primary information sources will be a system design document (available from Department contact listed below) and Department staff.

The self-study manual will be used to train approximately 200 users from three different populations—clerical records staff, general users, and system administrators—over a two-week period under the auspices of agency facilitators. This manual must also include job aids for quick reference. It must be written for 9th grade reading level.

Professional, Technical & Consulting Contracts

The facilitator manual should include directions for administering the self-study manual and an instrument to validate the learning success of the individual users. The selected consultant will be responsible for training 15-20 facilitators.

Prior to final completion of the self-study and facilitators manuals, draft manuals of both documents must be pilot tested on a select group of agency personnel.

One final camera-ready copy of both manuals and one copy in Word Perfect 5.0 (DOS) formatted for Hewlett Packard Laser Jet IID must be provided.

The Department has estimated the total cost of this project should not exceed \$25,000. The project completion date is December 1, 1989.

Timeframes

Deadline for completion of the first draft of training manuals—November 24, 1989. Deadline for completion of facilitator training including pilot testing and final completion of both manuals—December 1, 1989.

All proposals must be sent to and received by Cynthia Thompson no later than 5:00 p.m., on September 22, 1989. Proposals should include 3 references and closely related work samples for review.

Prospective respondents who have questions regarding this Request for Proposal may call:

Cynthia Thompson, Director
Department of Labor & Industry
Workers' Compensation Administrative Operations
443 Lafayette Road
St. Paul, MN 55155-4318
Telephone: (612) 297-3467

Legislative Coordinating Commission

Candidates Sought for Two Positions with the Small Business Procurements Commission

Small Business Procurements Commission is seeking candidates for two positions, Director and Secretary/Assistant. These may be filled by contract, consultant services or mobility assignment. Open immediately. For project description call Janet Lund, 297-3697 or write Room 85 State Office Bldg., St. Paul, MN 55155. Closing date 9-15-89.

Department of Trade and Economic Development

Minnesota Amateur Sports Commission

Request for Proposal for Sports Medicine Facility

The Minnesota Amateur Sports Commission (MASC) is seeking formal proposals from qualified individuals and firms to establish a sports medicine facility and program at the National Sports Center (NSC) in Blaine, MN. The NSC is a state owned multi-million dollar sports complex located on 90 acres of land in Blaine, MN adjacent to the Anoka County Airport. It is approximately 25 minutes from downtown Minneapolis or St. Paul. The facility is scheduled to open January 5, 1990 and includes a stadium, sports hall, food service and dormitory.

Respondents must demonstrate their ability to offer both sports medicine programs and staff support to the facility, and establish a full service medical facility with an emphasis in sports medicine.

Proposals are required to include the following elements:

1. Full Service Medical Facility

a) By early 1990, respondent shall develop and furnish 3,000 square feet of NSC space in the Sports Hall Administrative Wing for a full service medical clinic.

b) Respondent shall submit a plan and timetable to establish a larger free standing facility adjacent to the sports hall on the NSC grounds.

Professional, Technical & Consulting Contracts

2. Lease Agreement

Respondent must enter into a long term lease with the NSC encompassing both refurbishing costs and lease payments to the NSC.

3. NSC Sponsorship Program

Respondent shall participate in NSC sponsorship program as part of total agreement (available on request).

4. Staffing Major Sporting Events

Respondent must indicate how all major NSC sporting events would be serviced by professional medical staff.

5. Amateur Sport Education Program

Respondent must demonstrate an ability and commitment to develop sport medicine related curriculum and program materials on such topics as substance abuse, drug testing, nutrition, training issues, etc.

6. Leadership in Sport Medicine

Respondent should demonstrate ability to play a regional, national or even international role in the research, theory, and practice of sport medicine. A plan should outline goals of facility as a research and conference center for sports medicine.

All qualified candidates will be granted both a formal interview and inspection tour of the NSC (currently under construction) between the dates of September 11-19, 1989 upon request.

It is recommended that all candidates submit a letter of intent with an executive summary by September 25, 1989 and final proposals by October 3, 1989 at 4:00 p.m. Please direct proposals to:

Paul D. Erickson
Executive Director
Minnesota Amateur Sports Commission
c/o Minnesota Department of Trade & Economic Development
900 American Center Building
150 E. Kellogg Blvd.
St. Paul, MN 55101-1421
telephone: 612/296-4845

The Request for Proposal does not obligate the State to complete the project and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

Department of Transportation

Technical Services Division

Availability of a Contract for Bridge Design

The Minnesota Department of Transportation intends to engage a consultant to prepare preliminary and final reconstruction plans for Bridge No. 9030 (the Blatnik Bridge) carrying T.H. 535 over the St. Louis River in Duluth, Minnesota.

Work is proposed to start after February 21, 1989.

Technical inquiries should be directed to:

Mr. G.D. Peterson
Bridge Consultant Agreements Engineer
Transportation Building
St. Paul, MN 55155
(612) 296-3187

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

Consultant Agreements Engineer
Room 720S
Transportation Building
St. Paul, MN 55155

Response deadline 12:00 p.m., September 28, 1989.

State Grants

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.

Department of Corrections

Notice of Availability of Funds for Sexual Assault Services

The Minnesota Department of Corrections, Victim Services Unit, announces the availability of grant funds for sexual assault services in the Twin City Metropolitan Area serving Hispanic and Black communities. Both existing and new programs are eligible to apply for these funds.

A total of \$44,000 (two programs @ \$22,000) is available for direct services to victims of sexual assault, community education, professional training and coordination, and consultation to enhance overall response to victims of sexual assault for a nine month period, September 1, 1989-June 30, 1990. These funds are being made available through appropriation by the Minnesota Legislature (State), the Federal Preventative Health and Health Services Block Grant (MDH), and the Victim of Crime Act (VOCA). VOCA funding requires 20% in-kind or cash match for agencies currently providing effective services to victims and 35% cash or in-kind match for agencies not yet providing victim services. The RFP contains detailed requirements. Successful applicant(s) may be eligible for continued funding after the initial grant period.

Both private, non-profit and governmental units are eligible to apply. The deadline for grant proposal submission is **October 19, 1989, 4:30 p.m.** To receive a request for proposals which describes how to apply for this funding contact Pat Prinzevalle, Minnesota Department of Corrections, Victim Services Unit, 300 Bigelow Building, 450 North Syndicate, St. Paul, Minnesota 55104; Telephone: (612) 642-0253.

Dated: 31 August 1989

Department of Health

Funds Available for Dental Caries Prevention Activities in Low Income Rural Areas

The Minnesota Department of Health (MDH) has available limited funds and technical assistance for the implementation of three different types of dental caries prevention activities for children and youth in low income rural areas. These activities are school water fluoridation programs, dietary fluoride supplement programs and dental sealant demonstration projects. It is anticipated that these activities will be authorized by community health boards and school boards and implemented by Community Health Services (CHS) Agencies and school districts or schools. However, any public or private (not-for-profit) agency that can demonstrate the administrative, organizational, programmatic and fiscal capability to deliver a proposed activity is eligible to apply.

General Considerations

These dental caries prevention activities will be targeted to low income rural children. Priority consideration will be given to grant applications that: (1) serve rural children in low income counties; and (2) serve children who attend rural school buildings where a high percentage of children are on free or reduced lunch.

It is not expected that an agency will have developed a comprehensive detailed grant proposal prior to submitting a grant application. A simple one page application is all that is required to formally indicate intent to implement a dental caries prevention activity. After the grant funding decisions have been made (based upon the criteria and priorities indicated in this announcement), MDH Dental Health Section staff will provide the grantee agency with intensive consultation and technical assistance in developing the protocol and implementation plan for grant activities.

The grant funding cycle will be from the time the grant is awarded in the later part of 1989 until June 30, 1991. Throughout that time period consultation and technical assistance will be available from the MDH. Periodic monitoring of grant activities will be conducted by MDH staff. Annual and final programmatic and fiscal reports of grant activities will be required.

CHS agencies, schools and other private (not-for-private) agencies with population groups that meet the criteria indicated in this announcement are encouraged to submit an application. The grant application deadline is October 16, 1989. For additional information about specific dental caries prevention activities or to receive a grant application packet call Dr. Richard J. Hastreiter 612/623-5441 or Ms. Mildred Jackson 612/623-5529 at the Department of Health.

State Grants

School Fluoridation Programs

School water fluoridation is a proven method of reducing tooth decay by up to 40 percent in children who do not have access to fluoridated municipal water supplies.

School water fluoridation is authorized by a school board and implemented by a school district or school. Selection of school buildings for school water fluoridation programs will be based on the following criteria: 1) the school building must have its own water supply; 2) the school building must have 100 students or more; 3) the school building must have a significant proportion of children from low income families (a high percent of children must be on free or reduced lunch); and 4) the majority of students must not have access to municipal drinking water at home.

Approximately \$73,000 (about \$4,050 per grant) is available during the period of July 1, 1989-June 30, 1991 for up to eighteen school water fluoridation projects for the purchase of fluoridation equipment, chemicals, engineering and installation costs, and weekly fluoride testing materials. Program consultation and technical assistance will be provided by the MDH Fluoridation Coordinator. It is expected that the grantee agency will continue school fluoridation after the end of the grant period.

Dietary Fluoride Supplement Programs

Dietary fluoride supplement programs are an appropriate method of preventing tooth decay for children in geographic areas where fluoridated municipal or school water supplies are not available. Although less effective than fluoridation, dietary fluoride supplement programs are the only alternative for preventing dental caries in some rural areas.

Dietary supplement programs can be targeted to pre-school or school age children. Pre-school programs are usually authorized by a community health board and implemented in a county or multicounty area by a CHS agency. School-based dietary fluoride supplement programs are most often authorized by a school board and administered by a school district or school.

Approximately \$9,000 is available during the period of July 1, 1989-June 30, 1991 to initiate dietary fluoride supplement programs. These funds will be used to purchase dietary fluoride supplements and fluoride testing equipment to test home well water supplies for naturally occurring fluoride. Grant award amounts will be based on the cost of fluoride testing equipment and a per child capitation amount that will be determined by the cost of the dietary fluoride supplements. Consultation and technical assistance will be provided by the MDH Public Health Dental Hygienist. It is expected that the grantee agency will continue the program at the end of the grant period.

The criteria for selection of grant applications will be based on the composition of the rural low income population to be served. The criteria target those populations that: (1) have a high percent of children who are not served by fluoridated water supplies; (2) have a high percent of children from low income families (for programs targeted to pre-school children this will be determined by the county per capita personal income; for school-based programs this will be determined by the percent of children on free and reduced lunch).

Dental Sealant Demonstration Projects

Dental sealants are very effective in preventing tooth decay on the chewing surfaces of children's teeth. Available information indicates that sealants have received minimal publicity and are utilized by only a small percent of the population outside of the Twin Cities area. The purpose of the dental sealant demonstration projects is to promote the use of sealants through innovative outreach and educational activities.

Dental sealant demonstration projects are school-based activities authorized by school boards and community health boards, and implemented jointly by school districts and CHS agencies.

Approximately \$40,000 is available during the period from July 1, 1989-June 30, 1991 for sealant demonstration projects to purchase sealant promotion educational materials and to purchase sealants from local dental offices for low income children. Grant award amounts will be based on the cost of sealant promotion educational materials and on a per child capitation amount that will be determined by the cost of the dental clinical services for low income children.

The criteria for selection of grant applications will be based on the composition of the rural low income population to be served. The criteria target those populations that have a high percent of children from low income families. This will be determined by (1) the per capita personal income of the county in which the rural school building is located; and (2) the percent of children in the rural school building on free or reduced lunch (a high percent of children must be on free or reduced lunch).

Department of Health**Application for Preventive Health and Health Services Block Grant October 1, 1989-September 30, 1990**

The Minnesota Department of Health has prepared an application for the Preventive Health and Health Services Block Grant for Federal Fiscal 1990. The following is a financial summary of the activities funded in the application:

1. Health Promotion and Education	
Health Behavior, Development and Education	<u>\$168,974</u>
2. Disease Prevention and Control	
a. Chronic Disease Epidemiology	169,711
b. D P & C Field Services	192,265
c. Acute Disease Epidemiology	83,495
Subtotal	<u>\$445,471</u>
3. Environmental Health	
a. Radiation Control	105,182
b. Environmental Field Services	195,644
Subtotal	<u>\$300,826</u>
4. Public Health Laboratory	
a. Clinical Laboratory	<u>\$365,014</u>
5. Community Services	
a. Emergency Medical Services	
Grants—Poison Information Center	125,000
Grants—Regional Projects	200,000
b. Public Health Nursing	148,277
c. Community Development	169,791
Subtotal	<u>\$643,068</u>
6. Health Support Services	
Center for Health Statistics	<u>\$70,000</u>
7. Indirect Cost	<u>\$227,376</u>
8. Sexual Assault Prevention	
Grant to Dept. of Corrections	<u>\$62,028</u>
TOTAL EXPENDITURES	<u>\$2,273,756</u>

The Department invites public review and comment. Copies of the application are available upon request. Requests should be sent to David Hovet, Accounting Director, Minnesota Department of Health, P.O. Box 9441, Minneapolis, MN 55440.

Supreme Court Decisions**Decisions Filed 8 September 1989**

C6-88-327 David Company v. Jim W. Miller Construction, Inc., petitioner, Appellant. Court of Appeals.

1. Arbitrators chosen to resolve disputes between a contractor and owner arising from a construction project who fashioned an award, equitable in nature, which ordered the contractor to pay the owner and receive the subject property did not exceed the broad scope of the powers delegated to them by the arbitration clause of the construction contract.

2. By ordering conveyance of the subject property clear of liens by the owner to the contractor, upon payment of ascertained damages by the contractor, the arbitration award did not violate the Statute of Frauds.

Affirmed. Kelley, J.

Supreme Court Decisions

C6-88-2644 Dano Lane Ostrander, a minor, by Ronald Ostrander and Mary Ostrander, his parents and natural guardians, and Mary Ostrander, individually, Plaintiffs v. Cone Mills, Inc., Plametto Garment Co., and Cone Mills Corporation v. Jodi (Jensen) Enga and Paul Enga, individually. United States District Court. District of Minnesota, Third Division.

Certified question answered in the negative. Keith, J.

Dissenting, Yetka, J., Popovich, C.J.

Announcements

Environmental Quality Board (EQB): Comments on Environmental Assessment Worksheets (EAWs) are due October 4 for the following projects at their listed regional governing unit: **Great Lakes Gas Transmission Company 1990 Looping Project**, EQB (612) 296-5089; **Ellsworth Wastewater Treatment Facility**, Minnesota Pollution Control Agency (MPCA) (612) 296-7432; **MacMillan Bloedel Parallel Strand Lumber Plant**, MPCA (612) 296-7796; **153rd Avenue Construction**, City of Ramsey (612) 427-1410; **Meadow Brook Development**, City of Lakeville (612) 469-4431. • A Scoping EAW is being prepared on the **Bass Creek Business Park** with a scoping meeting scheduled for Monday 25 September, 4:30-7 p.m. at the Plymouth City Center, 3400 Plymouth Blvd., Plymouth (612) 559-2800. • The U.S. Air Force, Dept. of Defense, will prepare a federal EIS (Environmental Impact Statement) for the proposal to construct and operate an **Over-the-Horizon Backscatter (OTH-B) radar system** near Thief River Falls, MN in accordance with the National Environmental Policy Act of 1969 and 40 *CFR* part 1500. A public scoping meeting will be held Tuesday 26 September at 7:30 p.m. in the Thief River Falls High School Auditorium. Interested persons seeking information should contact Major Ronald L. Godner, TCO-5, Electronics Systems Division, Hanscom AFB, MA 01731. For more information on any of the above, contact Greg Downing, *EQB Monitor* editor at (612) 296-8253.

Single Metro District Created: The two Minn. Dept. of Transportation (Mn/DOT) districts serving the Twin Cities Metropolitan Area have been consolidated into one. Bill Crawford, Golden Valley district engineer, has been named to head up the new metro district, leading the combined activities of the Golden Valley and Oakdale districts. Kermit McRae, Oakdale district engineer will become district engineer at Rochester with former Rochester District Engineer Dave Smilonich assuming responsibilities for MnDOT Operations division's pre-construction functions in St. Paul. MnDOT Commissioner Leonard Levine said the change was made to ensure more consistent planning and client services, improve coordination with the Metropolitan Council and Twin Cities transportation agencies and provide regional freeway management.

Meeting to Hear Parks Commission Candidates: The Metropolitan Council's Metropolitan Agencies Appointments Committee will hold a public meeting on Sept. 20 to hear statements from and on behalf of candidates to represent District B on the Metropolitan Parks and Open Space Commission. District B includes all of suburban Ramsey County, Washington County north of Highway 36, and the communities of Lino Lakes and Centerville in Anoka County. The meeting is set at 7 p.m. in the Council Chambers of the old White Bear Lake City Hall, 4700 Miller Av., White Bear Lake. The Council will make its appointment on Sept. 28. The nine-member commission assists the Council in developing policy regarding regional park and open space facilities in the Twin Cities Metropolitan Area. The commission also makes grants of state monies to regional park agencies for park acquisition and development. For more information about the selection process and the meeting, call Sandi Lindstrom of the Council staff at 291-6390.

Governor's Appointments: Governor Rudy Perpich appointed to the **Health Care Access Commission**, created by the Legislature as part of the Healthspan legislation, **Carl Carlson** of Edina, president of the Metropolitan Senior Federation; **Frank Hansen** of Tofte as a representative of small businesses; **Becky Lourey** of Kerrick, as a representative of consumers; **Lois Quam** of St. Paul, as a representative of health care professionals and to serve as chair of the commission; and **Teresa VanderEyck** of International Falls, county director of health and social services. In addition to the Governor's appointees, the commission members will include appointees of the House and Senate and the commissioners of the departments of health, human services, employee relations and commerce, or the designated representatives of those commissioners. The commission is charged with reporting to the Legislature by Feb. 15, 1990, on its progress in developing the plan, including preliminary data analysis and other appropriate information. The commission is to provide a final report and implementation plan to the Legislature by Jan. 1, 1991. The Governor also named members of a **Governor's Advisory Council on Health Care Access**, whose members will serve as non-voting participants on the commission. Named to the council were: **Yolanda Arauza** of Moorhead; **Dr. Tony Baraga** of Hibbing; **Pete Benner** of Inver Grove Heights; **George Halvorson** of St. Paul; **Dr. Jim Hart** of Stillwater; **Dr. Charles Oberg** of St. Louis Park; **Tom Snell** of St. Paul; **Martha Van de Ven** of Long Lake.

Governor Perpich also named Judge Esther Tomljanovich of Lake Elmo chair of the Judicial Merit Advisory Commission, which makes recommendations to the Governor on judicial appointments. Tomljanovich, who is seated in the Tenth Judicial District in Stillwater, replaces Mike Sieben, who resigned to become chair of the Perpich Volunteer Committee. Tomljanovich has served on the bench for 12 years and now is assistant chief judge for the Tenth Judicial District. She also serves as chair of the Criminal Jury

Instruction Guide Committee for the District Judges Association. The Judicial Merit Advisory Commission next meets on Sept. 15, when it will consider applications for upcoming judicial vacancies in the Fourth Judicial District in Minneapolis and Seventh Judicial District seats in Moorhead and St. Cloud.

Governor Perpich named five new appointments to the **Metropolitan Airports Commission (MAC)**, including four new representatives of Greater Minnesota. "The expansion of the commission by the Legislature is recognition of the significance of the international airport to our entire state," said Governor Perpich. "The Legislature also sought, by adding these new members, to obtain balanced, statewide participation in the process of planning for future airport needs." Appointed by Governor Rudy Perpich to represent Greater Minnesota areas with airports defined as "key" by the Legislature were: **Jerry Brataas** of Rochester, president of the Rochester Airports Commission, to a term expiring July 1, 1990; and **Thomas Vecchi** of Duluth, an architect, to a term expiring July 1, 1992. Appointed to represent areas with "intermediate airports" were: **Clinton Dahl** of Jackson, a former mayor, to a term expiring July 1, 1991; and **Faye Petron** of Little Falls, a Morrison County commissioner, to a term expiring July 1, 1993. Governor Perpich also announced the appointment of **Virginia Lanegran** of South St. Paul, a committee administrator for the Minnesota House of Representatives, to represent Precinct 2 on the commission. She replaces Virginia Johnson of St. Paul, who resigned. The MAC is charged with promoting air transportation by developing the Twin Cities as an aviation center and coordinating with other aviation facilities in the state to provide economical and effective use of aeronautic facilities and services.

Governor Rudy Perpich has made several new appointments to state commissions. Named to newly created positions on the **State Council on Asian Pacific Minnesotans** are **Marisi Stromquist** of Brooklyn Park to serve as an Indonesian representative on the council, and **Supenn Harrison** of Minneapolis, to serve as a Thai representative on the council. Stromquist's term expires in January 1992. Harrison was appointed to serve until January 1991. The council is charged with advising the Governor and Legislature on issues confronting Asian Pacific people in Minnesota. Appointed to newly created positions on the **Children's Trust Fund Advisory Council** are **Linda Welch** of Shakopee, **Ana Ruby Lee** of St. Paul, and **Barb Yawn, M.D.**, of Worthington. Welch and Lee's terms expire in January 1992. Yawn was appointed to a term that expires in January 1991. The council is charged with assisting the commissioner of public safety in developing a plan to disburse money from the trust fund to public and private non-profit agencies providing child abuse prevention programs. Appointed to the **Emergency Response Commission** are: St. Louis County Sheriff **Gary Waller** of Duluth, a law enforcement representative; **Kevin Rabbett** of Lindstrom, a representative of emergency medical services; **Barbara Johnson** of Minneapolis, a representative of health professionals; Crystal City Manager **Jerry Dulgar**, a representative of local elected officials; and **Niel Ritchie** of Minneapolis, executive director of the Minnesota Public Interest Research Group, as a representative of the public. All are appointed to serve until January 1991. The commission monitors and reports on toxic materials in the state and procedures for cleaning up toxic spills. **Keith Ford** of Minneapolis is appointed to the board of directors of the **Minnesota Educational Computing Corporation**, which is involved in the design and development of educational software. Appointed to the **Council on Disability** are **Bruce Waugh** of Minneapolis, and **John O'Connell** of New Brighton. Waugh replaces Rachel Wobschall of St. Paul, who resigned. O'Connell replaces William Kazee of Faribault, who resigned. Both are appointed to terms expiring January 1991. The council is charged with advising the Governor, Legislature and agencies on the needs and potential of people with physical, mental or emotional disabilities.

Minnesota Manufacturer's Directory 1988-89

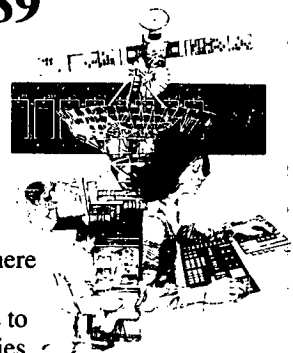


UPDATED: Name, address, phone number, staff size, sales volume, market area, year of establishment, type of firm, C.E.O., Sales or Marketing Manager, Purchasing Manager and four major manufactured products. Code #40-2, \$76.50.

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



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



TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. *Prices are subject to change.*

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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.

Love of Loons. A Voyageur Wilderness Book, with color photos and lore of this delightful state bird make this a beautiful gift. Stock #9-22, \$12.95 + tax.

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 #15-48, \$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.

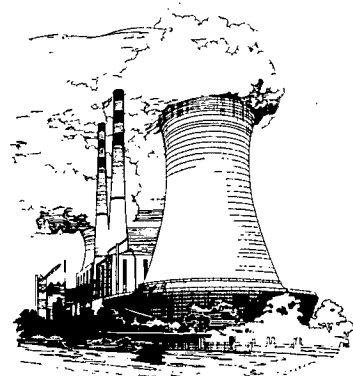
1988 Pollution Control Laws

Laws dealing with water pollution, disposal facilities, solid waste management, the MN Environmental Rights Act, recycling, and more. Code No. 2-21. \$16.00.

1989 Hazardous Waste Rules

Governs the production, storage, transportation and disposal of hazardous waste. MN Rules Chapter 7045 and 7046. Code No. 3-71. \$16.95.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. **Prices are subject to change.**



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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 1988

Includes all the changes made by the 1986 State Legislature. Complete and up-to-date. Code No. 2-92. \$7.00

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Morel: Minnesota's mushroom

The Mushroom Hunter's Field Guide. An all-color guide by Alexander Smith and Nancy Smith Weber with clear and orderly facts, explicit pictures and scientific accuracy. Stock # 9-10, \$14.95 + tax.

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.

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Murder: Minnesota style

Murder in Minnesota: A treasury of vintage crimes in which famous and obscure characters come to life in all their cleverness or murderous madness. Minnesota cases from 1858-1917. 253 pp. photos, index. Code 17-35, \$5.95.

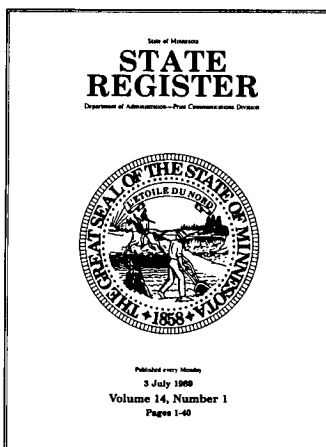
Robber and Hero: On September 7, 1876 six members of the James-Younger gang blasted their way out of Northfield, Minnesota. George Huntington's classic account of the Northfield Bank raid is as fascinating today as it was when first published 19 years after the attempted robbery. 125 pp., charts, maps, 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.

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The "inside scoop" on OVER \$1 BILLION in annual business contracts.



Each year over \$1 billion in state contracts are awarded. About \$20 million in state contracts per week are advertised in the **STATE REGISTER**, the most complete listing of state contracts available. Just a *sampling* of contracts includes: professional, technical and consulting services, commodities, printing, equipment, supplies, food items, and a wide variety of special services.

For only \$4 a week you can have delivered to your office the most effective and economical means of tracking state contracts. The smart way to stay in the know, and land the business of state government, is with the **STATE REGISTER**, now appearing TWICE A WEEK.

You will also have the *most comprehensive listing* of contract awards. And you'll receive the source of state agency rulemaking governing business, the professions and regulated occupations. You'll also get official notices, executive orders of the governor, supreme court and tax court decisions, a calendar of supreme court cases, state grants, and other special announcements.

An annual subscription is \$195 for both the Monday and Thursday editions, or \$130 for just the Monday edition if you're only interested in state agency rulemaking information. A 13-week trial subscription for \$60 includes both the Monday and Thursday editions. MasterCard/VISA and American Express orders can be taken over the phone, otherwise prepayment is required. Send, or FAX (612/296-2265), your orders to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Let us bring you the business of state government. Subscribe to the **STATE REGISTER** today, or call (612) 296-0931 for more information.

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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:

Guides for Profit Planning	Stock #:16-41, \$4.50 + tax
Managing for Profits	Stock #:16-68, \$5.50 + tax
Small Business Finance	Stock #:16-42, \$2.00 + tax
Starting and Managing a Small Business of Your Own	Stock #:16-40, \$4.75 + tax

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Subscription Services

Minnesota's Bookstore 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, Monday edition only, 1 year	\$130.00	90-1
Career Opportunity Bulletin, 6 mos.	\$ 20.00	90-4	State Register, Monday and Thursday editions, 1 year	\$195.00	90-1
Human Services Informational and Instructional Bulletin	\$100.00	90-6	Trial State Register, 3-months, Monday and Thursday	\$ 60.00	90-2
Human Services Bulletin List	\$ 55.00	90-7	Tax Court/Property Decisions	\$225.00	90-11
PERB (Public Employee Relations Board) Awards and Decisions, 1 year	\$285.00	90-9	Workers Compensation Decisions, unpublished subs run Jan-Dec; can be prorated	\$320.00	90-12
Minnesota Statutes Subscription. Includes the complete 10-volume set of Minnesota Statutes 1988	\$140.00	18-8	Workers Compensation Decisions Vol. 41	\$110.00	
			Minnesota Rules, Set + Supplement	\$160.00	18-200
			Minnesota Statutes, Set + Supplement	\$140.00	18-8

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Catching criminals is only one part of law enforcement.

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. \$14.00

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 1988—Includes laws governing motor carriers, motor vehicle registration and no-fault auto insurance. Code No. 2-85. \$14.00.

Criminal Code & Selected Statutes 1988—Governs the conduct of peace officers. Includes continuing education requirements, sentencing standards, and more. Code No. 2-68. \$16.00.

Blue Binder—3 ring, 2" capacity. Criminal Code and Motor Vehicle Traffic Laws require 1 binder each. Code No. 10-21. \$4.25.



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Human Services Laws and Rules

Human Services Laws 1988

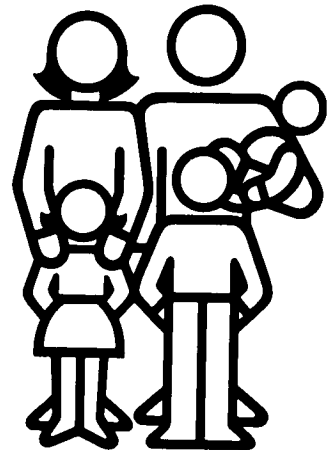
An extract from the statutes. Includes legislative amendments and additions from the most recent session. Code No. 2-56. \$21.95

Human Services Rules 1988

Rules governing assistance programs, eligibility grant amounts, AFDC and residence requirements. MN Rules Chapter 9500-9580. Code No. 3-95. \$29.95.

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

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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.

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, \$16.95.

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.

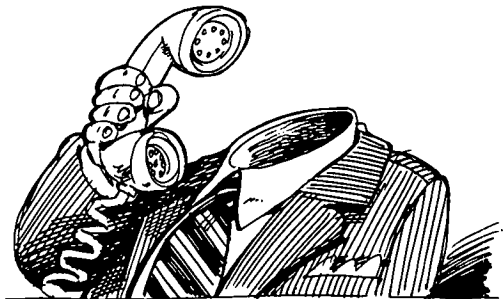
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Ever called this guy?

1989 & 1990 State of Minnesota Telephone Directory. Get a direct line to the persons you want to speak to. Contains names, numbers, and agencies in the executive, legislative and judicial branches of state government. Four sections give listings alphabetically by name, agency, Minnesota region, plus an index for cross referencing. Over 250 pages, paperback, 8½"x11". Code #1-87, \$11.95

U.S. Government Manual 1988-89. Contains comprehensive information on federal agencies of the legislative, judicial and executive branches of government. Each agency description includes address, phone number, a list of principal officials, a summary of each agency's purpose and programs and activities. Paperback 940 pages with appendices and index. Code #16-46. \$20.00



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Department of Commerce Regulated Profession Publications

Banking Laws 1989. Complete text of state law governing banks, trust companies and other financial institutions. Code #2-76 \$31.95

Business and Nonprofit Corporation Act 1988. Laws governing establishment and conduct of for-profit and non-profit corporations in Minnesota. Chapters 80B, 302A, 317. Code #2-87 \$11.00

Fair Labor Standards Act 1987. Minimum wage and overtime compensation standards for employers. Chapter 177. Code #2-75 \$5.00

Insurance Laws 1988. A compendium of laws applicable to the insurance business. Includes chapters on company and individual agents licensing requirements. Code #2-1. \$22.95

Insurance Rules 1988. Essential licensing information for businesses and agents. Includes standards on policies, practices, marketing and continuing education. Code #3-1 \$16.00

Notary Public Laws 1987. Statutory requirements regarding the oath of office, necessary bond, and taking of depositions. Includes an explanation of the term of the office and procedures for removal from office. Code #2-13 \$4.00

Real Estate Laws 1988. Complete and up-to-date extract from the 1986 Minnesota Statutes. Code #2-92 \$7.00

Real Estate Rules 1987. Contains all education and licensing requirements for agents. Chapters 2800.2805, and 2810. Code #3-99 \$8.00

Securities Laws 1987. Governs the activities of broker/dealers, agents or investment advisors. Chapter 80A. Code #2-12 \$6.00

Securities Rules 1988. Subjects include standards of conduct, equity securities, investment companies and more. Chapter 2875. Code #3-5 \$14.00

Banking Rules 1987. Code #3-81. \$6.00

Uniform Commercial Code 1986. Chapter 336, U.S. laws governing trade, including contracts, title, payment, warranties, performance and liability. Code #2-2 \$10.00

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Pheasants in Minnesota

Pheasants in Minnesota, focusing exclusively on the ringneck pheasant, this DNR booklet tells of this popular game bird's origin, introduction and development in Minnesota. Through many full-color photos the book shows the pheasant in various settings, tells how to maintain wildlife habitat and explains the wise management of the hunt. A great gift for each member of your hunting party, or as a memento to a special Minnesota hunting vacation. Quantity discounts available. Code #9-13, \$5.95.

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.



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	Code No.	Quantity	Description			Item Price	Total
TO ORDER: Complete attached order blank. Include either your American Express/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 credit card. 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. Ask for our catalogs for <i>Publications</i> , <i>Outdoors</i> , or <i>Mailing Lists</i> . PREPAYMENT REQUIRED Merchandise may be returned at \$1.50 restocking charge, if it is in resalable condition. NOTE: <i>State Register</i> and other subscriptions do not require sales tax or postage and handling fees. Prices subject to change without notice. Please allow 4-6 weeks for delivery. In a hurry? Stop by our Bookstore. Bookstore Hours 8:00-4:30 M-F.							
	Name or Company					Subtotal	
	Attention					Plus 6% tax MN Residents Only	
	Address						
	City		State	Zip	Postage/Handling (per order)	\$1.50	
	American Express/VISA/MasterCard No.					TOTAL	
	Signature			Expiration Date	Telephone (During Day)		

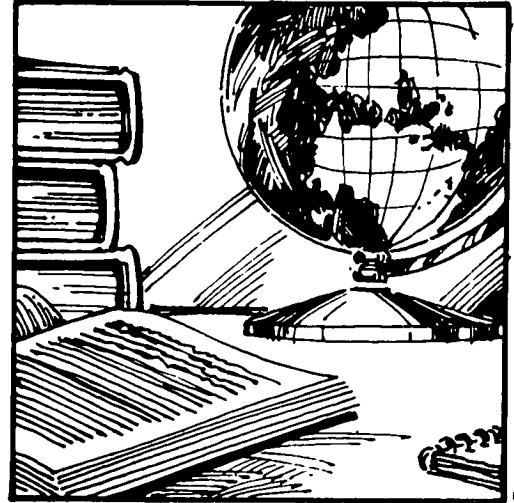
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Get Smart with these Education Resources

Board of Teaching-Licensure Rules 1987. *Minnesota Rules* Chapter 8700. Requirements for the issuance and renewal of all licenses, from vo-tech and hearing impaired to librarians and media generalists. Includes the Code of Ethics for Minnesota Teachers, and standards for teachers prepared in other states. Code #3-74, \$7.00 plus tax.

Education Directory 1988-89. All the elementary and secondary schools in the state. Includes Minnesota school districts, superintendents, boards, principals, district addresses, phone numbers and enrollment figures. Code #1-93, \$7.00 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. *Prices are subject to change.*



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Good Business Decisions are Made with Good Information

Minnesota Manufacturer's Directory. More than 7,000 entries that include 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, \$76.50 plus tax.

Business and NonProfit Corporation Act 1988. A handy reference that contains all the state laws governing the establishment and conduct of corporations in Minnesota. Includes *Minnesota Statutes* Chapters 80B, 302, 302A and 317. Code #2-87, \$11.00 plus tax.

Minnesota Guidebook to State Agency Services 1987-1990. Packed with information to help you cut through red tape for easy and fast dealing with state agencies, this treasure of information opens state government to you. Its 640 pages describe agencies, how they work, listing contacts, addresses, phones, and license requirements, grants, forms, reports, maps, publications and much more. Gives historical, statistical and important data useful in hundreds of ways. Code #1-4, \$15.00 plus tax.



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Resolve Bargaining Disputes and Grievances

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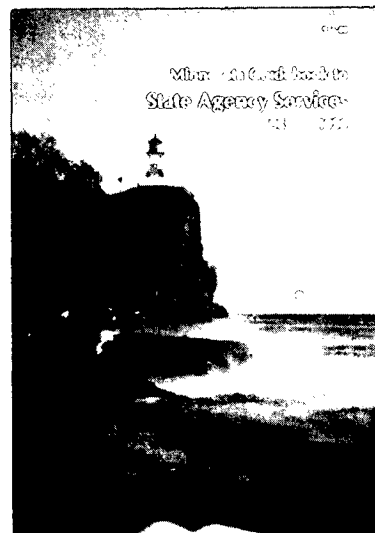
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